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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 2278/2024, CM APPL. 20105/2024—stay, CM APPL. 20106/2024—for getting the R-1 to 3 served notice through their counsels

PEEYUSH JAIN AND ANR

..... Petitioners

Through: Mr. Sanjeev Soni, Adv. for P-1.
Mr. Davinder Verma, Adv. for P-2.

versus

GHASI RAM JAIN (SINCE DECEASED) THROUGH HIS LRS
AND ORS

..... Respondents

Through: Respondent No. 1B Mr. Dharam
Chand Jain in person and on behalf of
LRs of deceased of respondent no. 1
as SPA.
Mr. J.K. Bhola, Mr. Mohit Mittal, Mr.
Gaurav Jain, Mr. Ankit Jain, Ms.
Muskan Bhola and Mr. Pratap
Paliwal, Advs. for R-2 & 3.
Mr. Y.R. Sharma, Adv. for R-4.

CORAM:
HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER
10.04.2024

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1. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 13.02.2024 passed by learned ADJ-05 (South-West) , Dwarka Courts, Delhi (“Trial Court”), in Civ DJ 8769/2016 titled as “Ghasi Ram Jain v. Padam Chand Ors.”, whereby the right of the petitioner to lead defendant’s evidence has been closed.
2. Petitioners herein are the defendant no. 4 & 5 before the learned Trial



Court.

3. It is submitted that a suit for partition and permanent injunction was instituted by late Ghasi Ram Jain against respondent no. 2, 3 (now deceased) and 4 on 14.08.2000.

4. Mr. Dharam Chand Jain, respondent no. 1B is present in person and on behalf of the legal heirs of deceased respondent no. 1 as SPA. He accepts notice on behalf of all the legal heirs of deceased respondent no. 1.

5. The learned counsel for the petitioners submits that vide order dated 30.01.2024 one opportunity was granted to petitioners to lead their evidence in time bound manner subject to cost. Further, vide order dated 02.02.2024, directions were issued to the petitioners to file their list of witnesses as well as evidence by way of affidavit within 3 days. It is submitted that the petitioners submitted their first list of witnesses on 27.02.2012 and the second list of witnesses alongwith affidavit in evidence was filed on 12.02.2024 by them. However, by way of the impugned order, the learned Trial Court without assigning any reasons for not allowing the evidence of the other witnesses has curtailed the right of the petitioners to summon other witnesses and has limited the right of the petitioners to examine only themselves in person.

6. Learned counsel submits that he seeks permission to withdraw the present petition with liberty to move an appropriate application as per law before the learned Trial Court contending the submissions that have been made before this Court with respect to the other witnesses to be examined for which list of witnesses has already been filed before the learned Trial Court.

7. The permission to withdraw the petition and the liberty to move an



appropriate application before the learned Trial Court on date already fixed i.e., 12.04.2024 is granted. The learned Trial Court to dispose of their application as per law with respect to the other witnesses to be examined for which list of witnesses has already been filed before the learned Trial Court.

8. Accordingly, the petition along with pending applications stand disposed of.

SHALINDER KAUR, J

APRIL 10, 2024 / SU