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

+ C.R.P. 327/2024, CM APPL. 65332/2024 (stay)

NIRMALA DEVI

.....Petitioner

Through: Mr. Parikshit Mahipal and Mr. Karam
Chand, Advocates.

versus

ANIL KUMAR

.....Respondent

Through: Mr. Mohit Batra, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

13.12.2024

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1. The Civil Revision Petition under Section 115 of the *Code of Civil Procedure, 1908* ('CPC' hereinafter) has been filed on behalf of the Petitioner, against the Orders dated 13.08.2024 and 17.09.2024 *vide* which the right of the Revisionist/Defendant, for adducing the evidence, has been closed.
2. It is submitted that in the present Revision Petition that on 13.08.2024, when the matter was listed for the Defendant's evidence, learned counsel could not appear as he was engaged in the another matter before the Rohini Court. Learned counsel appeared instead of 11:30 a.m, at 12:00 noon but his evidence was closed due to his non-appearance and the matter was fixed for final arguments on 17.09.2024.
3. The Orders have been assailed essentially on the ground that the Affidavit of evidence of the Defendant, has already been placed on record and the matter was listed for cross-examination of the witness.



4. An Application under Order 18 Rule 17 CPC was filed on behalf of the Revisionist/Defendant on the same date i.e. 13.08.2024, for recall of the said Orders. However, on 17.09.2024, the Application under Order 18 Rule 17 CPC, has been dismissed with the cost of Rs.5,000/-.

5. It is submitted that the impugned Orders are based on conjectures and surmises and are liable to be set-aside or else serious irreparable loss and injuries would be caused to the Defendant/Revisionist which cannot be compensated, in terms of money.

6. *Learned counsel on behalf of the Respondent*, has seriously contested the present Revision Petition on the ground that the Suit had been filed in the year 2016. The Plaintiff/Respondent concluded the evidence in 2020 and the matter was fixed for the evidence of the Defendant, on 27.04.2020. Since then, 20 opportunities have been granted to the Revisionist for adducing the evidence despite which no evidence has been led till date. It is the third time that the evidence of the Defendant was closed on 13.08.2024, looking at the conduct of the Revisionist. The Orders do not suffer from any infirmity and the Revision Petition is without merit.

7. **Submissions heard.**

8. The Defendant since 27.04.2020 has availed 20 opportunities. Three times his evidence, has been closed but again permitted to be led by the learned Trial Court. Despite 20 opportunities, no evidence has been led for which no cogent explanation has been given.

9. On 13.08.2024, the learned Civil Judge had fixed the time for recording of the evidence considering the previous conduct wherein 19 opportunities had already been availed. It was for the Counsel to choose in which matter he has a priority to appear. He cannot decide for himself about



the time at which he may choose to appear.

10. The learned Civil Judge has rightly closed the evidence of the Defendant. There is no infirmity in the present Revision Petition, which is hereby dismissed.

11. The Revision Petition is disposed of accordingly.

NEENA BANSAL KRISHNA, J

DECEMBER 13, 2024/RS