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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 14.01.2025

+ CM(M) 59/2025

GAURAV TREHAN SUBSTITUTED BY JAI KUMAR
TREHAN THROUGH LR.PetitionerThrough: Mr. Rajesh Yadav, Senior
Advocate with Mr. Kamal
Mehta, Mr. Sudeep Singh, Mr.
Akul Mehandru & Mr. Shubo
Jaina, Advocates

versus

GURVINDER SINGH BRAR AND ORS.Respondents

Through: None

CORAM:-**HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT (ORAL)****RAVINDER DUDEJA, J.****CM APPL. 1997/2025 (exemption)**

Allowed, subject to all just exceptions.

This application stands disposed of.

CM(M) 59/2025 & CM APPL. 1996/2025 (Stay)

1. This is a petition under Article 227 of the Constitution of India, challenging the order dated 30.11.2024, passed by District Judge-02,



Patiala House Court, New Delhi, whereby, the learned Trial Court, dismissed the application, filed under Order 18 Rule 17 CPC, seeking an opportunity to record the evidence of Sh. Gaurav Trehan as plaintiff's witness, has been dismissed.

2. Sh. Gaurav Trehan, initially filed a suit for specific performance on the basis of an Agreement to Sell executed between him and Sh. Gurdavinder Singh in the year 1997 before this Court.

3. Certain disputes arose in the family of Gaurav Trehan, which were later resolved and Memorandum of Settlement was executed and as per the said Memorandum, the suit property was given to Sh. Jai Kumar Trehan. Jai Kumar Trehan was accordingly substituted in the year 2006 in place of Gaurav Trehan. After the death of Jai Kumar Trehan, his legal heirs were brought on record vide order dated 28.04.2014.

4. Plaintiff's evidence was closed by the orders passed by this Court on 19.11.2024. The Chamber Appeal filed by the legal heirs of Jai Kumar Trehan was also dismissed vide order dated 17.07.2015.

5. The evidence of the defendant was concluded in 2024 and since thereafter, the case is listed before the Trial Court for final arguments.

6. Learned counsel for the petitioner submits that Gaurav Trehan could not be examined due to acrimonious relationship between the parties at that stage. It is submitted that Gaurav Trehan is the signatory



to the Agreement to Sell, and therefore, his evidence is most relevant for proving the said agreement and for proper adjudication of the case.

7. Trial Court in the impugned order noted that despite knowing the relevance of Gaurav Trehan's evidence, plaintiff failed to call him during the evidence stage. Trial Court emphasized the principle "*Vigilantibus Non Dormientibus Jura Subveniunt*" and found that petitioner's application was an attempt to fill lacunas in the case. Given that application was filed 27 years after the filing of the suit, the Trial Court dismissed the application.

8. Admittedly, the suit was filed in the year 1997 and the petitioner's evidence was closed on 19.11.2014 and Chamber Appeal was also dismissed vide order dated 17.07.2015, thus, the order dated 19.11.2014 closing the evidence of petitioner has since attained finality. An application under Order 18 Rule 17 CPC was filed as late as in the year 2024, so much so, even the defendant's evidence has been concluded and final arguments are already part heard. The Court is not impressed with the argument of learned Senior Counsel that Gaurav Trehan refused to appear in Court as a witness of the petitioner because of acrimonious relationship, inasmuch as, there is nothing on record that any attempt was made to summon him through court process.

9. The case has been pending since the last 24 years. After all, there has to be some end to the litigation.



10. High Court while exercising supervisory jurisdiction does not act as a Court of Appeal or to appreciate, re-weigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. High Court is not to substitute its own decision on the facts and conclusion, for that of the inferior Court or Tribunal. The power under Article 227 is to be exercised sparingly in appropriate cases like when there is no evidence at all to justify, the finding is so perverse that no reasonable person can possibly come to such a conclusion that the Court or Tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice (**Garment Craft Vs. Prakash Chand Goel, (2022) 4 SCC 181**).

11. There is no illegality or judicial impropriety in the impugned order passed by the Trial Court. The Court finds no merit in the petition.

12. Petition is accordingly dismissed.

RAVINDER DUDEJA, J.

January 14, 2025

RM