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

+ **CM(M) 97/2025**

**KARTAR SINGH DECEASED THROUGH HIS LRS NARESH
KUMAR**Petitioner

Through: Mr. K. Venkatraman, Mr. Anand and
Mr. Avinash, Advs.

versus

SAJJAN SINGH & ORS.Respondent

Through: Ms. Manika Tripathy, SC with Mr.
Ashutosh kaushi, Mr. Sanja Singh and
Mr. Gautam Yadav, Advs. for
DDA/R-2
Mr. Fanish K. Jain, Adv. for R3.

**CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA**

ORDER
% **17.01.2025**

CM APPL. 2997/2025

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 97/2025 & CM APPL. 2996/2025

1. This is a petition under Article 227 of the Constitution of India, challenging the order dated 14.01.2025, passed by the learned District Judge in CS DJ 75338/2016, titled "Kartar Singh Vs. Sajjan Singh".
2. Petitioner are the legal heirs of late Kartar Singh, original plaintiff in CS DJ 75338/2016, pending before the learned District Judge.



3. At the stage of final arguments, petitioners filed an application under Section 151 CPC for grant of permission to examine three witnesses. The application was dismissed by the trial court vide order dated 16.10.2018.

4. Aggrieved by the same, petitioners preferred CM (M) 1488/2018. Vide order dated 06.12.2023, this Court granted the petitioner an opportunity to lead evidence of three witnesses in a time-bound period of one month subject to payment of cost of Rs. 20,000/- to respondent No. 3 Ms. Saroj Bansal within a period of four weeks. The relevant paragraphs of the said order are extracted below:-

“4.4 Subject to payment of costs, the Petitioner will file his evidence affidavit of plaintiff witness-1 PW-1 within a period of four (4) weeks and take appropriate steps for summoning the two (2) official witnesses within the same period.

4.6 The matter will be taken up before the Trial Court on 17.02.2024 for examination of all the witnesses.

4.7 The Plaintiff is directed to remain present before the Trial Court each date of hearing until his evidence stands recorded.

5 It is clarified that if Petitioner fails to file avail the opportunity as per the timelines granted by this Court, the order of the Trial Court dated 15.01.2018 and 16.10.2018 shall come into operation.

5.1 It is made clear that if the Petitioner seeks any adjournment before the Trial Court on 17.02.2024 or any date thereafter until his evidence is recorded, the liberty granted by this Order shall stand forfeited automatically.

6. It is further clarified that in case the Petitioner leads his evidence, the right of the defendants herein to lead evidence shall be reopened and they will be at liberty to lead the evidence.”

5. Vide subsequent order dated 08.01.2025, CM (M) 1488/2018 was disposed of with direction to the trial court to determine from the record as to whether necessary compliance has been made in terms of directions issued by this Court and then pass appropriate orders accordingly.

6. Pursuant to the same, trial court has recorded in its order dated 14.01.2025 that petitioners have not complied with the orders dated



06.12.2023 by the High Court. It is this order, which has been impugned in this petition.

7. It has been submitted by the learned counsel representing the petitioner that in compliance of the directions of this Court, petitioners filed an affidavit of witness Sh. Naresh Kumar and submitted an application under Order 16 read with Section 151 CPC for summoning two official witnesses from DDA and PS Inder Puri. It is further submitted that attempts were made to personally deliver the cost to respondent No. 3 but she deliberately avoided accepting the same and eventually, petitioners were constrained to send the cost via money-order dated 19.01.2024, which has been duly received by respondent No. 3 without any objection. It is thus submitted that petitioners have substantially complied with the directions issued by the High Court and the finding of the trial court dated 14.01.2025 is erroneous.

8. Petition has been vehemently opposed by the learned counsel for the respondents submitting that petitioners have failed to strictly comply with the time-bound directions issued by the High Court vide order dated 06.12.2023, and therefore, the present petition is liable to be dismissed.

9. In terms of the order dated 06.12.2023, petitioners were required to make payment of cost within four weeks and file evidence affidavit of PW-1 within a period of four weeks and take appropriate steps for summoning the two official witnesses within the same period. The impugned order reveals that the application for issuance of summons was filed on 06.01.2024, which is beyond the period of one month granted by the High Court. The cost which the petitioners were supposed to pay to respondent No. 3 within four weeks, was paid through money-order dated 19.01.2024, i.e. much beyond



the period of four weeks as calculated from 06.12.2023. It is thus evident that there is non-compliance of the time-bound directions by the petitioners. The orders of the High Court dated 06.12.2023 are categorical that if petitioners failed to avail the opportunity as per the time-lines, the order of the trial court dated 15.09.2018 and 16.10.2018 shall come into operation.

10. That being so, I find no illegality and impropriety in the orders passed by the learned District Judge. There is no merit in the petition filed by the petitioners.

11. Petition is accordingly dismissed.

RAVINDER DUDEJA, J.

JANUARY 17, 2025

RM