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

+ **CM(M) 125/2025**

MOHD.ISMAIL

.....Petitioner

Through: **Mr. Anil Panwar & Mr. Aman
Qayoom Wani, Advs**

versus

KHAWJA SAYED MOHD.NIZAMI & ANR.Respondents

Through: **Mr. Himat Akhtar, Mr. Aman Akhtar,
Mr. Juned Salmani & Mr. Roman
Khan, Advs**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

25.02.2025

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CM(M) 125/2025 & CM APPL. 3707/2025 (Stay)

1. Petition impugns the order dated 19.12.2024, passed by the learned Rent Controller in RC ARC 5015/2016, titled "*Khawaja Jasan Sani Nizami & Anr. Vs. Salamat Ullah & Anr.*"
2. Petitioner is respondent No. 2 in the eviction petition pending before the trial court. Vide impugned order dated 19.12.2024, after cross-examination of RW-1, the Court closed the evidence of the petitioner.
3. Learned counsel for petitioner submits that as per his list of witnesses, six more witnesses are yet to be examined. It is further submitted that respondents took four years for its evidence and that petitioner just requires one opportunity to examine the remaining witnesses.
4. Taking note that the eviction petition has been pending for more than ten years, as also the fact that list of witnesses was vague in nature,



inasmuch as, it does not provide the details of the record which the witnesses from the department are to produce, the trial court proceeded to close the evidence of the petitioner.

5. Learned counsel for the respondents states that petitioner is only interested in delaying the disposal of the case, and therefore, learned trial court has rightly closed the evidence of the petitioner.

6. No doubt, it is an old case and has been pending for the evidence of the petitioner since 05.10.2023, and during this period, he has been able to examine only one witness, so much so, he did not even file the affidavit of RW-2. However, the right to lead evidence is a valuable right for the fair adjudication of the case, and therefore notwithstanding the fact that it is an old case, I deem it appropriate to grant further opportunity to the petitioner to lead evidence subject to the following schedule:

- i) Petitioner shall file revised list of witnesses, giving details of the documents to be summoned from the official witnesses, within a week from today;
- ii) Petitioner shall file the affidavit of RW-2 within a week with advance copy to the respondents;
- iii) Petitioner shall get only two opportunities for concluding its evidence;
- iv) It shall be the responsibility of the petitioner to produce the witnesses at its own responsibility, and for the said purpose, he may, if so desire, take *dasti* summons from the trial court;
- v) Petitioner shall not seek any adjournment for evidence on account of any reason whatsoever.

7. On account of the delay caused, petitioner is subjected to cost of Rs. 20,000/-, which shall be paid by the petitioner to the respondents on or



before the next date fixed before the trial court and if the cost is not paid, the evidence of the petitioner shall be deemed closed.

8. The impugned order dated 19.12.2024 is accordingly set aside and petition is disposed of in terms of the aforesaid order.

RAVINDER DUDEJA, J.

FEBRUARY 25, 2025

RM