



\$~65

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

+ **CM(M) 332/2025**

INDIRA GANDHI LIBRARY SOCIETY AND ANR.Petitioners

Through: Mr. Sanjeev Sindhvani, Senior Advocate with Mr. Sunil Chauhan and Ms. Vatsala Chauhan, Advocates.

versus

UNION OF INDIA AND ORS.Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr. Sunil, Advocate and Mr. Shivam Sachdeva, GP.
Mr. Abhinav Singh, Mr. Praveen Kaushik, Advocates for R-2 to 5.
Mr. Arjun Mahajan, SC for DDA with Mr. Apoorv Upmanyu and Mr. Harsh Vashisth, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

%

18.02.2025

CM APPL. 9733/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CM(M) 332/2025 & CM APPL. 9732/2025 (stay)

1. This is a petition under Article 227 of the Constitution of India, impugning the orders dated 30.01.2025 and 24.09.2024, passed by the learned Civil Judge in Suit bearing No. CS SCJ 598103/2016, titled "*Indira Gandhi Library Society & Ors. Vs. Union of India & Ors.*"



2. Shorn of all the unnecessary details, the brief facts are that petitioners filed a suit for perpetual and mandatory injunction against the respondents. Vide order dated 24.09.2024, learned trial court was pleased to close the right of the petitioners to examine PW Satpal. The application for review filed by the petitioners was dismissed vide order dated 30.01.2025. The said order reads as under:-

“24.09.2024

Present: Sh. Sunil Chauhan, Ld. counsel for plaintiff
alongwith PW4 Inder Singh Solanki.
Sh. Vikram Singh Girsra, Ld. Counsel for the
defendant no. 1 to 5.
Sh. Anupam Sharma, Ld. counsel for defendant no.
6 to 8.

This matter was filed in the year 1990 and is one of the oldest matter of the court. On the LDOH, adjournment was sought on behalf of the plaintiff for examining witness Satpal and witness Inder Singh Solanki and last opportunity was granted to the plaintiff for examination of witness Satpal and Inder Singh Solanki.

Witness Satpal has not appeared today and no reason has been cited for his non appearance. Accordingly, right of the plaintiff to examine witness Satpal is closed.

PW4 Inder Singh Solanki has been examined in chief (with respect to additional evidence by way of affidavit) and partly cross examined on behalf of defendant no. 6 to 8. Remaining cross examination is deferred for post lunch session as it is 1:33 PM.”

3. Learned counsel for the petitioners submits that PW Satpal is an old man, aged about 77 years and it is difficult for him to travel to the court again and again. It is submitted that on 24.09.2024, examination of PW-4 Inder Singh Solanki was still going on and therefore it was highly unlikely that the statement of PW Satpal could have been recorded, and due to this reason, he did not appear on the said date. It is stated that the respondents would not have suffered any prejudice in case the petitioners were granted



an opportunity on the next date to examine PW Satpal. Learned counsel prays for grant of only one opportunity for examination of PW Satpal.

5. Learned counsel for the respondents have submitted that the suit filed is of the year 1990, but the petitioners have not been able to complete their evidence. It is further submitted that on the previous date of hearing, i.e. on 03.09.2024, the trial court had clearly indicated that no further opportunity shall be granted to the petitioners to examine PWs Satpal and Inder Singh Solanki. Despite the said order, petitioners failed to produce PW Satpal without any rhyme and reason.

6. A perusal of the trial court order dated 24.09.2024 reveals that PW Satpal and Inder Singh Solanki were summoned for examination as last opportunity. Even though, PW Satpal was not present, the cross examination of PW-4 Inder Singh Solanki could not be completed on that day, and therefore, the case had to be deferred for the remaining cross examination of PW-4. If the case was getting adjourned for the plaintiff's evidence, there was no harm in granting one more opportunity to the petitioners to produce PW Satpal on the next date. The case would have been different if the cross examination of PW-4 had got completed and the plaintiff's evidence was closed on 24.09.2024 itself.

7. The right to lead evidence is an important right of the plaintiff to prove its case. The material evidence, which is available, as a general rule, should be allowed to be brought on record for the proper adjudication of the disputes between the parties.

8. The Court understands the anxiety of the learned trial court to expedite the disposal of the case, more so, in the light of the fact that it was an old case, however, keeping in view the entirety of facts and



circumstances, this Court deems it appropriate to grant one more opportunity to the petitioners to produce PW Satpal, subject to the condition that petitioners would not seek any adjournment for the said purpose on account of any reason whatsoever and also subject to cost of Rs. 20,000/- to be deposited with the Welfare Fund of Delhi High Court Bar Association.

9. The impugned orders dated 24.09.2024 and 31.01.2025 are set aside to the aforesaid extent and petition is disposed of accordingly.

RAVINDER DUDEJA, J.

FEBRUARY 18, 2025

RM