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

+ **CM(M) 430/2025**

JOGINDER PAL SHARMA & ANR.

.....Petitioners

Through: Mr. H. S. Sharma, Adv alongwith
petitioner No.1 in person.

versus

KRISHNA VIRMANI

.....Respondent

Through: Mr. Pratyaksh Sharma, Adv for R-1.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

04.03.2025

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CM APPL. 13066/2025 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 430/2025 & CM APPL. 13065/2025 (Stay)

1. The petitioners impugn the order dated 07.01.2025 passed by the learned District Judge-6 (South), Saket Courts, New Delhi in *CS DJ 7360/2016* titled as "*Krishna Virmani Vs. Nirmala Madan & Ors* whereby learned Trial Court closed the petitioner's evidence.
2. The respondents filed a Civil Suit against the petitioners for cancellation of documents, mandatory and permanent injunction.
3. The issues were framed on 03.01.2019 and 05.11.2019.
4. The Local Commissioner was appointed for recording of the evidence. Upon completion of evidence of the respondents, the petitioners



herein were granted opportunities to lead the evidence. No evidence was led despite grant of four opportunities by the Local Commissioner so much so the petitioners did not even bother to appear before the Local Commissioner.

5. The learned Trial Court was therefore, constrained to pass the order closing the petitioner's evidence by impugned order dated 07.01.2025.

6. Mr. H. S. Sharma, Advocate appearing for the petitioner submits that while passing the impugned order, the learned Trial Court did not take into account the fact that after framing of issues, the matter remained pending for evidence of the respondents for about four years and during this period, several adjournments were sought by respondent No.1 for the said purpose.

7. Learned counsel further submits that both the petitioners are senior citizens and petitioner No.1 is suffering from health issues having undergone bypass surgery in the year 2023.

8. It is submitted that affidavit of petitioner No.1 has already been placed on record and petitioner No.1 needs only one opportunity to examine himself and no other witness is to be examined. He further submits that the closure of evidence of the petitioners would result in miscarriage of justice.

9. The petition has been opposed by Mr. Pratyaksh Sharma, learned counsel for respondent No.1 submitting that it is an old case of the year 2014 and that the petitioners have been granted sufficient opportunities for leading its evidence and despite grant of such opportunity, petitioners have failed to lead its evidence and therefore, there is no justification for the grant of further adjournment to the petitioners for leading the evidence.

10. Undisputedly, it is an old case pending before the learned Trial Court for more than 10 years. I have also been told that in the past, there have been directions from High Court for expeditious disposal of the case.



11. Admittedly, both sides are senior citizens and petitioner No.1 is stated to have undergone bypass surgery. I am of the considered view that *lis* between the parties be decided on merits. It would therefore be in all fairness that the petitioners be granted one more opportunity to lead its evidence and for the delay caused, respondents can be compensated with costs.

12. Keeping in view the entire facts and circumstances and in the interest of justice, the impugned order dated 07.01.2025 is set aside, subject to payment of cost of Rs 10,000/- with condition that petitioners shall get only one opportunity to lead their evidence.

13. It is further clarified that the petitioners will produce the witnesses at their own cost and responsibility before the learned Trial Court i.e. on 11.03.2025 and shall not seek adjournment for the said purpose on account of any reason. The petition is accordingly disposed of in terms of the above order.

RAVINDER DUDEJA, J

MARCH 4, 2025

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