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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 19th March, 2025***

+ CM(M) 2624/2024 & CM APPL. 30482-30485/2024
BABLOO

.....Petitioner

Through: Mr. Sarvesh Chowdhary, Mr. Jyotirmay Vasisht, Mr. Sumit Srivastava and Mr. Pushaan Singh Gullia, Advocates.

versus

JAWAHAR AND ORS.

....Respondent

Through: Mr. Prince Aroraa, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Petitioner is plaintiff before the learned Trial Court and had filed a suit for possession, damages, permanent and mandatory injunction.
2. After completion of pleadings, the following issues were framed by the learned Trial Court:-

*“1. Whether the plaintiff is entitled for recovery of possession of property measuring 66 sq. yards bearing Khasra no. 610/290 and Khewat No. 77 of Village Kotla Mubarkapur, Tehsil Defence Colony, New Delhi? (OPP).
2. Whether the plaintiff is entitled for recovery of damages/mesne profit, if any, and to what rate? (OPP).
3. Relief.”*

3. The petitioner examined eight witnesses in his support and similarly the defendants also led their evidence.
4. When the case was at the stage of final arguments, applications i.e.



under Order XVIII Rule 2 CPC and Order XXVI Rule 9 CPC, were moved by the plaintiff/petitioner to frame additional issues and producing evidence. Such application was considered by the learned Trial Court on 19.09.2023 and while disposing the application moved by the plaintiff under Order XVIII Rule 2 CPC, the following additional issues were directed to be framed:-

“A. Whether the suit property falls under Khasra No. 610/290 or Khasra No. 610/293 or Khasra No.293 of Village Kotla Mubarakpur, New Delhi? (OPP).

B. Whether the Plaintiff is entitled to Mandatory injunction as prayed for? (OPP).

C. Whether the plaintiff is entitled to the permanent injunction as prayed for? OPP”

5. However, learned Trial Court also observed in said order dated 19.09.2023 that it was only a *formal recasting of the issues* and there was no requirement of re-opening evidence, while also supplementing that the comprehensive evidence had already been led by the parties.

6. Accordingly, the case was fixed for final arguments.

7. Fact remains that when the plaintiff filed an application under Order XVIII Rule 3 CPC seeking permission to lead evidence with respect to the abovesaid additional issues, such application was dismissed while also referring to the above observations appearing in order dated 19.09.2023.

8. It is in the abovesaid backdrop that the present petition has been filed seeking permission to lead evidence with respect to the abovesaid additional issues.

9. Learned counsel for petitioner submitted that there is no intention to delay the matter as the suit in question has been filed by the petitioner and he is more than eager to ensure that his such suit reaches logical conclusion, as expeditiously as possible.



10. He also submits that if permission is granted, he would ensure that he adheres to the dates given in this regard by the learned Trial Court and examines the witnesses, as permitted by the learned Trial Court, in a time-bound manner.

11. Learned counsel for respondent submits that though the petition is devoid of any merit, without prejudice his rights and contentions, he would have no objection to the abovesaid request but he also seeks that cost be imposed upon the petitioner for causing delay in the matter and for re-opening the evidence, all over again.

12. Keeping in mind the overall facts of the case and also keeping in mind the concession given by the learned counsel for respondent, the present petition is allowed with direction to the learned Trial Court to permit the petitioner to lead additional evidence, strictly in relation to the abovesaid additional issues.

13. It will be for the learned Trial Court to consider as to which witness is required to be called for proving the abovesaid additional issues and since the case is old, learned Trial Court would be at liberty to give time-bound directions in this regard.

14. Simultaneously for causing delay in the matter, the petitioner is burdened with cost of Rs. 25000/- which shall be paid to the defendants on the next date of hearing fixed before the learned Trial Court i.e. on 15.04.2025.

15. Needless to say, after such evidence is over, if defendant also seeks an opportunity to lead evidence or adduce additional evidence with respect to said additional issues, the learned Trial Court shall also permit such request, in accordance with law.

16. It is expected that the petitioner would file list of proposed witnesses in



2025:DHC:1802



advance so that such list can be considered by the learned Trial Court without any further delay and appropriate direction in this regard is also passed on same day i.e. 15.04.2025.

17. The present petition, along with all the pending applications, if any, stands disposed of.

(MANOJ JAIN)
JUDGE

MARCH 19, 2025/ss/pb