



\$~30

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

% ***Date of Decision: 28th May, 2025***

+ CM(M) 1006/2025 & CM APPL. 33353-33354/2025
INDIRA GANDHI LIBRARY SOCIETY & ANR.

.....Petitioner

Through: Mr. Sanjeev Sindhwani, Sr. Advocate
with Mr. Sunil Chauhan, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondent

Through: Mr. Amit Tiwari, CGSC with Mr.
Ayush Tanwar and Mr. Himanshu
Bidhuri, Advocates for R-1/UOI.
Mr. Abhinav Singh and Mr. Chetna
Kaushik, Advocates for R-2 to 5.
Mr. Gaganmeet Singh Sachdeva, Mr.
Harshpreet Singh Chadha and Mr.
Hridyesh Khanna, Advocates for
DDA.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners i.e. Indira Gandhi Library Society has filed a suit for perpetual and mandatory injunction.
2. The suit is, admittedly, three decade old.
3. When the abovesaid suit was at the stage of defendant's evidence, and was taken up by the learned Trial on 13.05.2025, plaintiffs moved an application under Section 60 of Bhartiya Sakshaya Adhiniyam, 2023 (corresponding Section 65 of Indian Evidence Act, 1872) seeking permission



to lead additional/secondary evidence.

4. According to petitioners/plaintiffs, the abovesaid application had been moved in terms of the liberty already granted by the learned Trial Court.

5. Mr. Sanjeev Sindhvani, learned Senior Counsel for the petitioners/plaintiffs does admit that on said date, defendant's witness was also present in the Court but since he wanted him to confront with certain record and since he had already moved an application seeking permission to lead additional/secondary evidence, the learned Trial Court while taking note of the fact that it was an old case, examine the concerned official as D1W1 and declined opportunity of cross-examining him. The plaintiffs/petitioners had, admittedly, sought an adjournment for cross-examination and it wanted to wait for the outcome of the abovesaid application seeking permission to lead additional evidence and, therefore, it did not conduct any cross-examination on the said date.

6. Such order is under challenge.

7. Learned counsel for respondents are also present on advance notice.

8. Admittedly, there can be no doubt with respect to the underlying intention reflected in the order and since the case was one of the few oldest cases, the endeavour of the learned Trial Court was, merely, to ensure its expeditious disposal.

9. Even if the liberty had been granted to the plaintiffs to move any such application, ideally speaking, it should have supplied advance copy to the opposite side.

10. Be that as it may, after hearing arguments from both the sides and keeping in mind the nature of controversy, and in order to ensure that there is no further delay in the matter, the present petition is disposed of with direction



that on the next date, which is stated to be 03.06.2025, the learned Trial Court would make best endeavour to dispose of the abovesaid application moved by the plaintiffs under Section 60 of Bhartiya Sakshaya Adhinyam, 2023 and as per its outcome, if required, the plaintiffs would be given an opportunity to lead additional/secondary evidence.

11. Simultaneously, in order to ensure that there is no serious prejudice to the case of the plaintiffs, irrespective of the outcome, the plaintiffs may also be given one last opportunity to cross-examine D1W1.

12. It is expected that the learned counsel for plaintiff would make himself available for said purpose and would appear before the learned Trial Court on any date to be given in this regard.

13. Needless to say, such one opportunity would be an effective one. It be also ensured by defendants that the concerned witness appears before the learned Trial Court for said purpose.

14. Since the witness is being recalled again and the witness is stated to be Block Development Officer, an amount of Rs.5000/- be paid to him towards expenditure to be incurred by him towards traveling etc.

15. The petition stands disposed of in aforesaid terms.

16. The pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 28, 2025/ss/js