



2026:DHC:1214



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 12th February, 2026

+ CM(M) 355/2026

AFTAB AHMAD & ANR.

.....Petitioners

Through: Ms. Zubeda Begum and Mohd. Anis
Ur Rehman, Advocates.

versus

MIRZA AZIZ BEG (SINCE DECEASED) THROUGH LEGAL
HEIRS MIRZA ARIF BEG AND ORS.Respondents

Through: None.

CORAM:**HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA****ORDER (Oral)****Rajneesh Kumar Gupta, J.**

1. This hearing has been conducted through hybrid mode.

CM APPL. 9739/2026 & CM APPL. 9740/2026 (for exemption)

2. Allowed, subject to all just exceptions. Applications are disposed of.

CM(M) 355/2026 & CM APPL. 9738/2026 (for interim relief)

3. The present petition has been filed under Article 227 of the Constitution of India, 1950 assailing the order dated 25th September, 2025 passed by the learned Trial Court in RC/ARC/371/2018, whereby the application filed by the petitioners/respondents for recalling the order dated 25th April, 2025 and seeking permission to lead evidence, was dismissed.

4. Heard. Record perused.

5. Learned counsel for the petitioners has argued that the petitioners could



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not lead evidence on 25th April 2025, as their previous counsel has expired and affidavit of evidence could not be filed due to non-availability of the complete certified copies of the record to the new counsel. As the non-filing of affidavit in evidence and non-examination of the witnesses is neither intentional nor deliberate, so the opportunity be granted to the petitioners to lead their evidence.

6. The relevant portion of the impugned order dated 25th September, 2025 reads as follows:

“Perusal of record shows that vide order dated 26.10.2023 leave to defend application was treated as WS and only one opportunity was granted to respondent to lead respondent evidence. However, subsequently from 21.12.2023 to 21.11.2024 the respondent did not lead any evidence despite availing repeated opportunities and imposition of costs, and despite the fact that Ld. Counsel for the respondent was present on several dates. Therefore, it is clear that sufficient opportunities to lead respondent evidence were already availed by the respondent even before the death of the previous counsel.

Even from 16.01.2024, when the new Counsel was engaged, till 25.04.2025 the respondent again did not lead any evidence.

It is thus clear from the conduct of the respondent that intentionally and deliberately he has not been taking steps to lead evidence. Therefore, recalling order dated 25.04.2025 and reopening the evidence would cause injustice to the petitioner who has been suffering due to unnecessary delay caused by the respondent.

*Accordingly, no grounds are made out to allow the present application. **The present application is accordingly disposed of as dismissed for being without merits.**”*



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7. A perusal of the record shows that as the sufficient opportunities were granted to the petitioners to lead their evidence, so their evidence has been rightly closed by the Trial Court to avoid delay in the disposal of the matter. As the Trial Court has passed a reasoned order in accordance with law to avoid unnecessary delay in the proceedings, so, this Court does not find any illegality or infirmity in the impugned order and is upheld. Accordingly, the petition is dismissed as being devoid of any merit. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

FEBRUARY 12, 2026/nd/abk