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

+ **CM(M) 8/2026**

MRS.VEENA JAIN & ANR.

.....Petitioners

Through: Mr. Aayush Agarwala, Mr. Anuj P. Agarwala, Mr. H.S. Sharma, Mr. Varun Sharma and Mr. Vipul Singh, Advocates.

versus

SH BHUSHAN KUMAR JAIN & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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06.01.2026

1. This hearing has been conducted through hybrid mode.

CM APPL. 338/2026 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

CM(M) 8/2026 & CM APPL. 337/2026 (for stay of orders dated 9th February, 2024 and 11th August, 2025)

3. By way of the present petition filed under Article 227 of the Constitution of India, 1950, the petitioners have assailed the orders dated 09th February, 2024 and 11th August, 2025, whereby the application filed by the petitioners under Order XVIII Rule 17 CPC was dismissed by the trial court.

4. This Court has heard the Id. Counsel for the petitioners. Record perused.

5. Learned Counsel for the petitioners has argued that the petitioners are senior citizens and could not produce their evidence due to their age-related ailments, and also, the matter has been explored by the petitioners to be settled



between the parties. It is submitted that the impugned order is contrary to the principles of equity and natural justice and has been passed without giving any cogent reasons. In case, the petitioners are not granted an opportunity to lead evidence, they would suffer irreparable loss.

6. The operative portion of the impugned order dated 11th August, 2025 reads as under:

“9. A bare perusal of the record reveals that the present matter is at a stage of final arguments. The applicants/defendants no.5 & 7, by way of the present application, seek to recall of order dated 09.02.2024 and have sought permission to lead to their evidence. There is no justified ground shown by them in their application as to why they waited for so long and moved the present application only on 02.06.2025. Even if the defendants no.5 & 7 are senior citizens there is no justifiable ground to recall of order dated 09.02.2024 since they were through-out represented by their counsel and were well aware of the proceedings of the case. They chose not to abide by the order dated 09.02.2024 and avail the opportunity to lead their evidence for the reasons best known to them. Litigants are not expected to conduct the proceedings of the case as per their whims and fancies. The present application has been moved at a highly belated stage and I do not find any cogent reason to allow the same. Accordingly, the application of the defendants no.5 & 7 stands dismissed.”

7. A perusal of the record shows that *vide* order dated 9th February, 2024, the right of the petitioners to lead their evidence was closed after they had been granted a final opportunity, subject to costs of Rs. 5,000/ to be deposited with DLSA. The said costs were also not deposited.

The present application under Order XVIII Rule 17 CPC was filed after more than one year from the date of the order dated 9th February, 2024. Mere old age of the petitioners cannot be a ground to allow the application,



particularly when ample opportunities were granted to lead their evidence.

The settlement talks, as argued, also do not justify the repeated adjournments. The adjournments sought by the petitioners before their evidence was closed have delayed the disposal of the case. Accordingly, this Court does not find any illegality in the impugned orders, and the same are upheld. The present petition is dismissed as being devoid of any merits. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

JANUARY 6, 2026/nd/tp