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

% *Date of Decision: 29th July, 2025*

+ CM(M) 2524/2024 & CM APPL. 27448/2024

INDER KUMAR

.....Petitioner

Through: Mr. Akshay Kumar, Advocate along
with petitioner in person.

versus

SURINDER KUMAR

.....Respondent

Through: Ms. Richa Verma and Ms. Gitika
Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defending a suit filed by his brother who seeks possession of the property in question, besides *mesne* profits, injunction and damages.
2. The case is now at the stage of final arguments.
3. The grievance of the petitioner (defendant before the learned Trial Court) is with respect to order dated 20.04.2024 whereby his request to call four witnesses has been declined.
4. The impugned order records that the case had been fixed for defendant's evidence for the first time in the year 2020 and that the defendant had been playing delaying tactics by moving one application after the other and, since the evidence was closed on 26.09.2023 on the submissions made by the defendant himself, there was no reason to entertain the abovesaid application.
5. Undoubtedly, to the abovesaid extent, there is no illegality and



perversity in the impugned order and the defendant should have been careful and watchful. If at all, he wanted to examine any further witness, he should not have closed his evidence.

6. According to petitioner (defendant), he wants to examine four witnesses and all such witnesses are official witnesses i.e. witnesses from MCD-School, MTNL, Gas Service Agency and Electricity Distribution Company.

7. However, during course of the arguments, learned counsel for petitioner has restricted his request with respect to examining the concerned officials from MCD-School and from concerned Gas Service Agency only.

8. He submits that since, as per the plaint, there is assertion that he was inducted as licensee, *albeit*, by way of oral agreement, he wants to examine the abovesaid two witnesses in order to show that he was occupying the premises, prior to the alleged creation of license. His further defence is that suit property was purchased through joint funds and, therefore, he had also equal share therein.

9. Learned counsel for respondent has, however, opposed the present petition and submits that the endeavour of the petitioner is, simply, to delay the disposal of the suit, on one pretext or the other.

10. The next date before the learned Trial Court is stated to be 19.08.2025.

11. Keeping in the mind the nature of pleadings and overall facts of the case and, without expressing any opinion about the merits of the case as such, the present petition is disposed of with direction that the defendant-Mr. Inder Kumar, would be permitted to examine said two officials.

12. Defendant would take requisite steps, in advance, so that both the abovesaid witnesses appear before the learned Trial Court on date fixed i.e.



19.08.2025, and, the case being old, once the evidence is recorded, it will be upto the learned Trial Court to hear final arguments as well, subject to position of its board.

13. Simultaneously, for causing delay in the matter, the petitioner herein is burdened with cost of Rs.20,000/- which shall be paid to the plaintiff on the date fixed i.e. 19.08.2025.

14. It is, however, clarified that the petitioner would be entitled to only one effective opportunity in this regard and, under no circumstance, he would be given any further opportunity for examination of said two witnesses, as the matter has already delayed, considerably.

15. The present petition is disposed of in aforesaid terms.

16. The pending application also stands disposed of.

(MANOJ JAIN)
JUDGE

JULY 29, 2025/ss/pb