



2025:DHC:6340



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

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

+ CM(M) 637/2025 & CM APPL. 20241-20243/2025

MST NAYAB BEGUMPetitioner

Through: Mr. Pradeep Chaudhary, Advocate.

versus

ARMAN ULLAH QURESHI & ANR.Respondent

Through: Mr. Shazeb, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Learned counsel for respondent No.2 appears pursuant to notice.
2. The point involved in the present petition is very short.
3. A suit was filed by plaintiffs seeking cancellation of sale deed, possession and injunction.
4. When the case was taken up by the learned Trial Court on 07.07.2024, learned Trial Court declined to give any further opportunity to plaintiffs to lead their evidence and their right was, accordingly, closed.
5. An application was moved by the plaintiffs seeking recall of the abovesaid order.
6. According to plaintiffs, earlier, part-testimony of plaintiff No.2 was recorded in the Court but, since, she suffered paralysis and was not even able to speak on account of her such medical condition and was under medical observation, she wanted her daughter-in-law to be examined for the purposes of substantiating the case of plaintiffs.
7. Learned Trial Court declined to recall the order and observed that such medical condition of plaintiff No.2 was never apprised to the Court on any previous occasions and since the case pertained to year 2007 and was at the



stage of PE since 2012, there was no reason for grant of any further opportunity.

8. Such order dated 19.07.2024 is under challenge.

9. Mr. Pradeep Chaudhary, learned counsel for petitioner/plaintiff submits that daughter-in-law of plaintiff No.1 would be entering into witness box in her individual and substantive capacity and would not be deposing as an Attorney of the plaintiff No.2. He reiterates that keeping in mind the medical condition of plaintiff No.2, who is still paralysed and unable to speak, the learned Trial Court should have granted indulgence to the plaintiffs.

10. However, at the same time, in all fairness, he admits that the learned Trial Court was never informed about the abovesaid medical condition of plaintiff No.2.

11. As far as defendant No.1 is concerned, he is already proceeded against *ex-parte*.

12. Mr. Shazeb, learned counsel for respondent No.2 has joined the proceedings through *video conferencing* and leaves it to this Court to pass appropriate order in the matter.

13. The next date before the learned Trial Court is stated to be 05.08.2025 and is fixed for cross-examination of the witness of defendants.

14. Undoubtedly, the suit in question has already got considerably delayed but keeping in mind the overall facts of the case and the stated medical condition of plaintiff No.2, the present petition is allowed with permission to Mst. Gufreen to enter into witness box as witness of plaintiff No.2.

15. This Court, however, expects that her deposition would not be based on any hearsay facts.

16. A copy of her affidavit in advance be supplied to learned Counsel for



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defendants so that on the next date of hearing, if the Board of the learned Trial Court permits, she can be examined and cross-examined.

17. Keeping in mind the medical condition of plaintiff No.2, this Court does not find any real requirement of burdening the petitioner with any cost.

18. The petition stands disposed of, accordingly.

19. All pending applications stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 29, 2025/sw/JS