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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ C.R.P. 24/2023, CM APPL. 4805/2023

VARSHA KOHLI

.....Petitioner

Through: Mr. Tarun K. Bedi, Advocate.

versus

GEETANJALI CHADHA & ANR.

.....Respondents

Through: Ms. Swati Rathi, Mr. Rohit Boora,
Mr. Prem Sood, Ms. Chetishta Malik
and Mr. Luv Sharma, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

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30.09.2024

CM APPL. 4807/2023 (under Section 151 CPC on behalf of the Petitioner seeking Condonation of Delay of 92 days in re-filing the Petition)

1. An application seeking Condonation of Delay of 92 days in re-filing the petition has been filed on behalf of the petitioner.
2. In view of the reasons given in the application, the delay is condoned.
3. The application is accordingly disposed of.

C.R.P. 24/2023

4. A Petition under Section 115 read with Section 151 CPC has been filed on behalf of the petitioner for recall of the Orders dated 28.01.2020 and 27.08.2022 of learned ADJ whereby the right of the petitioner to lead defence evidence has been closed.
5. It is submitted in the petition that the petitioner is a 75 years old lady whose hearing is impaired. She is the lawful owner of two and half floor residential house bearing Np.C-9/85, Sector-7, Rohini, Delhi, where she had been living on the first floor, while the other floors had been rented out. The



rental income was the only source of her survival. After the demise of her first husband in the year 1998, she remarried Rajinder Katiyar, who was living in the vicinity. From the first marriage she had one daughter Geetanjali who got married to Dheeraj Chaddha. Having no steady source of income, they were also dependant upon the petitioner for their financial needs. Later on, Dheeraj Chadha became a person of criminal nature and was arrested in a murder case and remained in judicial custody.

6. In connivance with each other, both the respondents prepared a Sale Deed of the suit property and got it fraudulently registered in September, 2012 in favour the daughter Geetanjali. Entire consideration amount was shown in cash which is sufficient to show that the Sale Deed had been registered by playing fraud on the petitioner.

7. The petitioner filed a **Civil Suit CS No.1897/2013** for cancellation of Sale Deed and Permanent Injunction against the respondents, who are her own daughter and son-in-law. The petitioner was dispossessed from the suit property and the respondents even started collecting the rent accruing from the other floors. The case was initially instituted in Delhi High Court, but due to the change in pecuniary jurisdiction was transferred to Rohini Courts. The defence of the respondents was struck off vide Order dated 01.10.2019 and the matter is now listed for final arguments on 07.11.2022.

8. The petitioner submits that the evidence of the plaintiff was closed vide Order dated 28.01.2020. The Review filed against the said Order was also dismissed by learned ADJ vide Order dated 27.08.2022, which is challenged by way of present Revision Petition.

9. It is submitted that the petitioner was unable to appear on account of her ailing husband who was suffering from Cancer and who has died on



13.07.2020. Her inability to lead her evidence was purely on account of circumstances beyond her control. The parties had even tried for reconciliation through Mediation Cell, but to no avail. The right of the petitioner would be adversely affected and she would suffer irreparable loss if she is not given an opportunity to lead her evidence.

10. A prayer is, therefore, made that the Order dated 28.01.2020 and 27.08.2022 may be set aside and one opportunity may be given to the petitioner to adduce the evidence.

11. No formal reply has been filed on behalf of the respondents and none is present on their behalf.

12. Submissions heard.

13. The suit had been filed in the year 2013 and the details of dates as filed by the petitioner show that effectively the adjournment had been taken on three dates by the petitioner, which essentially was also on account of ailing husband, who has finally died.

14. Considering the totality of circumstances, the petitioner is given two opportunities to conclude her entire evidence. No further opportunity on any ground shall be given.

15. The parties are directed to appear before the concerned Court on 04.10.2024.

16. The petition stands disposed of along with the pending application.

NEENA BANSAL KRISHNA, J

SEPTEMBER 30, 2024/va