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

% ***Date of decision: 31st July, 2024***

+ **CM(M) 3055/2024 & CM APPL. 42836-42837/2024**

SHRI SUKHMAL JAIN

.....Petitioner

Through: Mr. Ankur Bansal with Mr. S. Alam,
Mr. Sunil Singh, Mr. Neeraj Jha and
Mr. Kumar Gaurav, Advcoates.

versus

SHRI BRIJ BHUSHAN JAIN & ORS.

.....Respondent

Through: Mr. Mohit Chaudhary, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is aggrieved by order dated 01.05.2023 whereby his opportunity to lead evidence has been closed and resultantly, the matter has been fixed for defendants' evidence.
2. Learned counsel or the defendants (respondents herein) also appears on advance notice.
3. The attention of this Court has been drawn to various subsequent orders passed by the learned Trial Court after the above order dated 01.05.2023 and it is very clear that even subsequent to the aforesaid order, whereby the right to lead evidence by the plaintiff had been closed by the learned Trial Court, the plaintiff did not take any immediate remedial step and rather surrendered himself to the aforesaid order. He kept on appearing before the learned Trial



Court and was also given opportunity to file written submissions before the learned Trial Court.

4. It is also apprised that the arguments have already been heard by the learned Trial Court and learned Trial Court has fixed up the matter for pronouncement of order today itself at 2:00 p.m.

5. It has not been explained as to why it took so long for the petitioner to move the petition before this Court. He could have very easily filed the same immediately after the impugned order was passed on 01.05.2023. It could have also moved an application before the same Court seeking recall of such order but for the reasons best known to the petitioner, no step in the aforesaid direction was even contemplated.

6. The various subsequent orders, as shown by the learned counsel for respondent during the proceedings of the case, indicate that the plaintiff kept on appearing before the learned Trial Court, totally unperturbed by the fact that his right had been closed, suggesting that he has no grievance with respect to such closure of his right of leading evidence.

7. Though, the fate of the suit looks inevitable, keeping in mind the facts disclosed before this Court, this Court does not find it to be a fit case where it should invoke its power under Article 227 of Constitution of India, more so, when the case is already fixed for pronouncement today itself.

8. Petition is, accordingly, dismissed.

(MANOJ JAIN)
JUDGE

JULY 31, 2024/sw