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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 09th October, 2024***

+ CM(M) 3584/2024 & CM APPL. 59690-59691/2024

GIRISH KAPOOR & ANR.

.....Petitioner

Through: Mr. Priyank Sharma and Mr. S.R.
Sharma, Advocates

versus

ROOP KISHORE RASTOGI

.....Respondent

Through: Mr. Sonal Sinha, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 59691/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3584/2024 & CM APPL. 59690/2024

1. Petitioners are defending an eviction petition filed under Section 14(1) (a) and (b) of Delhi Rent Control Act, 1958.
2. They are aggrieved by order dated 18.09.2024 whereby their right to lead evidence has been closed.
3. The impugned order records that though the affidavits of the concerned witnesses had been submitted but none of them were present and keeping in mind that the above opportunity to lead evidence was last and final, respondents' evidence was directed to be closed.
4. Case is now fixed for 15th instant for final arguments.
5. Learned counsel for respondent/landlord appears on advance notice. He states that intention of the petitioners has always been to delay the



proceedings on one pretext or the other and that their previous conduct was also such that they do not deserve to be given any further indulgence.

6. During course of the arguments, it was informed by the learned counsel for the petitioner that the aforesaid opportunity was only the second one. According to him, the case had been taken up on 03.08.2024 for the first time for the purpose of respondents' evidence and on that day, because of the medical exigency of the counsel himself, the case was adjourned. Thereafter, matter was taken up by learned Trial Court on 18.09.2024 when the affidavits of the concerned witnesses were placed on record but because of their absence, the learned Controller closed their right to lead evidence.

7. During course of the hearing, when asked, learned counsel for petitioners submitted that there was no intention to delay the matter and since matter is fixed before the learned Trial Court on 15.10.2024, both the aforesaid witnesses, if directed, would appear before the learned Controller for the purpose of their examination and cross-examination. It is also, very fairly, admitted by the learned counsel for petitioner that they would not be examining any other witness in their defence.

8. During further course of the consideration, learned counsel for the respondent, when asked again, stated that, without prejudice to his rights and contentions, he would have no objection if one last and final opportunity is granted to them in this regard, *albeit*, subject to imposition of heavy cost.

9. Keeping in mind the overall facts and circumstances of the case and also the gracious concession given by learned counsel for the respondent, present petition is disposed of with the direction that both the aforesaid witnesses i.e. Mr. Raj Kumar and Mr. Girish Kapoor would appear before the learned Controller on the date fixed i.e. 15.10.2024 so that they are subjected



to the requisite cross-examination by the landlord. Learned Trial Court, subject to its board position, may record their evidence that day itself or on some other day. However, it is clarified that only one effective opportunity in this regard is given to them and if the matter is adjourned by the learned Controller to some other date, they would ensure that they both appear on such date also so that there is no further delay in the matter and they are duly cross-examined as well.

10. Keeping in mind the overall facts and circumstances of the case, the petitioners are burdened with cost of Rs. 30,000/- (Rs. 15,000/- each petitioner), which shall be payable to the opposite side/learned counsel for the opposite side on the date fixed i.e. 15.10.2024.

11. Petition stands disposed of in the aforesaid terms.

12. Copy of the order be given *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

OCTOBER 9, 2024/dr