

08.07.2025

Pr: Ms. Sonia Arora Ld. Counsel for plaintiff.
Mr. Siraj Chauhan Ld. Counsel for defendant 1 & 2 through
VC.
None for defendant no.3.

The applications of defendants no.1 & 2 u/o 18 Rules 1 & 2 of CPC and u/o 18 Rule 17 of CPC are taken up for consideration.

By order dt. 18.11.2024, the right of the defendants to lead evidence was closed by the Ld. Predecessor of the Court after observing that the defendants do not appear to be interested in proceeding with the case.

By the above two applications, the defendants no.1 & 2 seek recall of the order dt. 18.11.2024 and want opportunity to lead evidence. It is stated by them that the defendant no.1 could not contact his counsel since he was busy taking care of his aged and unwell mother. It is also stated that the previous counsel for the said defendants was appointed by the Legal Services Authority. It is averred that there was communication gap between the LAC and the defendant and the LAC was busy most of the time.

It is pleaded that the LAC did not explain the stages of the suit to the defendants due to which the defendants failed to lead evidence. It is submitted that the defendants have now appointed a private counsel.

Applications have been opposed by the Ld. Counsel for plaintiff. She has drawn the attention of the Court to the various orders passed

prior to 18.11.2024 and has argued that sufficient opportunities were granted to the defendants to lead evidence. It is also submitted that application has been filed under incorrect provision of law i.e. Order 18 Rule 17 of CPC.

Arguments have been heard and the record has been perused.

Even though the defendants have not been pursuing the present case diligently, the Court is of the opinion that one last opportunity should be granted to them for leading their entire evidence.

Mentioning of incorrect provision of law does not disentitle a party to a relief which it is otherwise entitled to.

Applications of the defendants no.1 & 2 are allowed. One last opportunity is granted to them for leading their entire evidence.

To come up for the same on 18.08.2025.

Let advance copy of evidence by way of affidavit be supplied to Ld. Counsel for plaintiff atleast five days prior to the next date of hearing.

Next date of hearing is fixed after enquiring the convenience of the Ld. Counsel for defendants. It is made clear that no adjournment shall be granted to defendants for leading evidence.

(Shirish Aggarwal)
District Judge-03
East/KKD Courts/Delhi
08.07.2025