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

+ CM(M) 68/2016 & C.M. Nos.2364-65/2016

JITENDER KUMAR BHATIA

..... Petitioner

Through Mr. Kumar Mukesh, Adv.

versus

SUJATA KHANNA

..... Respondent

Through Mr. Ompal Singh, Adv.

+ CM(M) 70/2016 & C.M.Nos.2407-08/2016

PRADEEP KUMAR BHATIA

..... Petitioner

Through Mr. Kumar Mukesh, Adv.

versus

SUJATA KHANNA

..... Respondent

Through Mr. Ompal Singh, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **05.02.2016**

Order impugned before this Court is the order dated 14.01.2016 vide which the application filed by the defendant under Order XVI Rule 1 (1) of the CPC had been dismissed. By way of this application, the petitioner/defendant had sought summoning of PW-4 SI Sandeep for his cross-examination. The impugned order had declined this prayer and rightly so. The Court had noted that SI Sandeep already stood examined as a witness of the plaintiff as PW-4. He had been cross-examined in detail by the learned counsel for the defendant.

The contention before this Court is that SI Sandeep is required to be recalled as he was the Investigating Officer of FIR No. 200/2013 in which a status report had been filed and the copy of the status report would be relevant for the adjudication of the present case. He had put these questions to PW-4 in his cross-examination but the necessary answers could not be elicited. The cross-examination of PW-4 shows that SI Sandeep was the Investigating Officer of FIR No.200/2013 but the initial investigation was conducted by one SI Hira Lal. PW-4 was unaware of any status report which had been filed. Since the bone of contention before this Court is the status report, the defendant is permitted to obtain a certified copy of this status report, (if any) in FIR No.200/2013 which is a FIR under Sections 448/380 of the IPC registered at PS Model Town. The same shall be taken on record by the Trial Court and the Trial Court shall deal with it in accordance with the submissions made by the learned counsel for the defendant on that score at the time when the stage so arrives i.e. at the stage of final arguments.

Vide the same order, the petitioner was aggrieved by the dismissal of his application under Order 1 Rule 10 of the CPC. This was an application which had been filed by Jitender Kumar Bhatia, the son of Pradeep Kumar Bhatia seeking impleadment in the present suit. His submission was that since the possession of one room of the tenanted premises was under his tenancy and he was paying separate rent for the same, his impleadment in the present petition was also necessary. This application was filed by him on 13.10.2015. Besides the fact that this application had been filed belatedly i.e. at the stage

when the evidence of the defendant was in progress, even otherwise this appears to be primarily filed malafide; the case of the plaintiff is that his tenancy was with Pradeep Kumar Bhatia in terms of a rent agreement dated 04.01.2011. It is on the basis and strength of this document that he is seeking a decree. The impleadment of the petitioner Jitender Kumar Bhatia, the son of Pradeep Kumar Bhatia who has submitted that he is in possession of front room will not affect the right of the plaintiff qua the independent agreement which the plaintiff has with the father of the applicant Jitender Kumar Bhatia. The applicant before the Trial Court was rightly held to be neither a necessary and nor a proper party. This application was filed by the son of the tenant only to delay the proceedings.

Both these petitions are accordingly disposed of with the aforementioned modifications but noting the malafides of the applicant (in his application under Order 1 Rule 10 of the CPC) that petition is dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 05, 2016

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