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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 75/2016

RASHID JUNG

..... Petitioner

Through Mr.Wasim Asharaf, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through Mr.Anurag Ahluwalia, CGSC for UOI.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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09.02.2016

C.M. No.2636/2016 (exemption)

C.M. No.2637/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

CM(M) 75/2016

Petitioner is aggrieved by the order dated 23.11.2015 vide which his right to lead evidence in the affirmative stood closed. The subsequent order dated 02.12.2015 vide which the plaintiff has filed an application under Section 151 CPC seeking a recall of the earlier order dated 23.11.2015 also stood dismissed with cost. This Court has been informed that the suit property has been vacated in October, 2015.

The Trial Court has noted that issues were framed as way back on 19.02.2015. Opportunities had been granted to the plaintiff to lead his

evidence. There appears to be little reason on the part of the plaintiff to not have produced his witnesses. Contention is that the petitioner had filed CM(M) No.1206/2015 and he was actually awaiting the outcome of that petition that is why the evidence was not led by him in the affirmative. This was hardly a reason which has been furnished by the learned counsel for the petitioner but keeping in view the interest of justice and a valuable right of the petitioner would be lost in case he is not allowed to lead his evidence in affirmative, he is granted one opportunity to lead his evidence in affirmative. List of witnesses has not been filed but the learned counsel for the petitioner submits that he will file affidavit of two witnesses and the needful be done in a period of three weeks with advance copy to the learned counsel for the respondent. Both the witnesses will be present on the same day i.e. on the date to be fixed by the Trial Judge. This order is passed subject to payment of Rs.10,000/- as costs.

Petition disposed of.

INDERMEET KAUR, J

FEBRUARY 09, 2016

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