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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.R.P. 28/2016
VEENA JAIN

..... Petitioner

Through Mr.Puneet Agarwal, Advocate.

versus

SATISH KUMAR JAIN

..... Respondent

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **22.02.2016**

C.M. No.6402/2016 (Exemption)

Exemption is allowed subject to all just exceptions.

Application disposed of.

C.R.P. 28/2016 & C.M. No.6401/2016

The petitioner is aggrieved by the order dated 10.12.2015. Vide this order two applications filed by defendant No. 3 had been dismissed. Both these applications are dated 05.10.2012. The first application filed by defendant No. 3 sought permission to file certified copy of certain documents; these documents, as per the one page application, related to certain hand-written bills qua the construction of the suit property and were of the years 1968-1972. Permission had been sought to place these documents on record. The second application was filed by defendant No. 3 under Section 151 of the CPC which also made a similar prayer i.e. to place on record 30-40 years old documents which were qua the receipts from 30.07.1992 up to 12.08.1970. This is contained in para 2 of the application. (These two receipts i.e. receipts bearing No. 29.06.1962 and

13.07.1962 were issued by the Meerut Municipality evidencing that deceased defendant No.1 (Shanti Lal Jain) was owner of a residential plot in Meerut).

Both these applications were dismissed and rightly so.

Record shows that the present suit is a suit for possession filed by the plaintiff against his family members which included his deceased father and his brothers. The petitioner before this Court is defendant No. 3 in the Trial Court. He is the brother of the plaintiff. The suit property is property bearing No. 148, Block No. A, State Bank Colony, G.T. Road, Delhi. The plaintiff had based his claim on his allotment letter being an employee of the State Bank of India. A common written statement was filed by defendants No. 1 to 3 and 5. Contention in the written statement was that the suit property was a joint property and did not individually belong to the plaintiff and in fact the property had been purchased out of the joint family funds. This written statement had been filed on 07.11.1985.

As noted supra, the present applications came to be filed on 05.10.2012 i.e. at the fag end of the trial when case has progressed to the stage of final arguments. Apart from the fact that these applications were filed highly belatedly i.e. after a lapse of more than 27 years, even otherwise the relevancy of these documents and how these documents would help the defence of the defendant had not been expressed or answered. The two rent receipts dated 30.07.1992 and 12.08.1970 (referred supra) relate to a property in Meerut which would have no concern with the suit property. The bills between 30.07.1992 to 12.08.1970 qua the construction of the suit property are

admittedly of years i.e. more than 40 years old; if the defence of the defendant in the written statement that this property was purchased out of the joint family funds and the constructions was also raised therefrom was correct, the obvious corollary would be that the bills (now relied upon by defendant No. 3) would have been filed by him along with the written statement and if not at that stage may be at some appropriate stage but definitely not 27 years later.

The whole purpose of defendant No. 3 is nothing but to delay the trial. The facts were noted by the Trial Court in the correct perspective.

The Trial Court even in its earlier order dated 20.04.2013 had in fact declined this prayer. The prayer had been made by defendant No. 3 to bring certain documents on record (same documents) but this prayer had been declined on 20.04.2013; the Court had noted that these documents are not required to be taken on record. The formal applications were however kept pending and were disposed of by the impugned order.

In this background, the order under challenge suffers from no infirmity. This petition is an abuse of the process of the Court. Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 22, 2016

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