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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 374/2013 & C.M.No.5627/2013 (stay)

IQBAL BANO

..... Petitioner

Through Mr. F.A. Rahmani, Adv.

versus

LATE SMT. HAZRA BEGUM & ORS.

..... Respondents

Through Mr. Shafiullah, Adv. for R-1(A), R-1
(B), R-2 and R-3.
Mr. Mahesh Srivastava and Mr. Vaibhav
M. Srivastava, Adv. for R-4.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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23.02.2016

The petitioner is aggrieved by the order dated 13.12.2013 passed by the Civil Judge only to a limited extent.

Present suit is a suit for declaration, permanent and mandatory injunction. The plaintiff before the Trial Court is stated to be the second wife of Haji Mohd. Ashqueen. The defendants before the Trial Court are stated to be the first wife of Haji Mohd. Ashqueen and his sons who have been arrayed as defendants No. 2 to 5. The trial has progressed. In the course of proceedings, an application under Order 1 Rule 10 of the CPC had been filed by the daughters of Haji Mohd. Ashqueen. Their submission was that if the suit is decreed, their rights in the suit property would be effected and thus they are necessary and proper parties. They were impleaded as defendants No. 1-A and 1-B. The impugned order had

noted that defendants No. 1-A and 1-B do not wish to file any separate written statement but they shall adopt the written statement of defendant No. 2, their brother. This was allowed. However right of defendants No. 1-A and 1-B to cross-examine the witness of the plaintiff was kept alive. The petitioner is not aggrieved by the impugned order as it has been passed; his only submission is that the right of defendants No. 1 to 3 to cross-examine the witnesses of the plaintiff stood closed and vide the impugned order, they should not be granted an opportunity to cross-examine the witnesses of the plaintiff. It is clarified that the order (as passed by the Trial Court) qua defendant No. 3 has become final not having been challenged. The impugned order has only given permission to defendants No. 1-A and 1-B to cross-examine the witnesses of the plaintiff.

Petition disposed of in the above terms. The Trial Court shall endeavour to dispose off the suit expeditiously.

INDERMEET KAUR, J

FEBRUARY 23, 2016

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