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

+ CM(M) 192/2016

PREM LATA GUPTA

..... Petitioner

Through

Mr.Sanjeev Aggarwal & Mr.Ekansh  
Aggarwal, Advocates

versus

ASHOK KUMAR GUPTA

..... Respondent

Through

Mr.K.K.Malhotra & Mr.Tarun  
Kumar, Advocates

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

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**20.07.2016**

1. By the present petition, the petitioner seeks to impugn the order dated 25.01.2016 by which the learned trial court has disposed of the application under Order XXXVIII Rule 5 CPC read with Section 151 CPC attaching before the judgment the bonds lying with the Rural Electrification Corporation Ltd, Core-4, Scope Complex, 7 Lodhi Road, New Delhi with a direction to the said corporation not to release the maturity amount of the bonds to the petitioner which amount to Rs.5,00,000.00.

2. The plaintiff has filed a suit for recovery of Rs.9,45,000.00 claiming that the property being Flat No.325A, Pocket-2, Ground Floor, Mayur Vihar, Phase-1, Delhi- 91 was the absolute property of Sh.Sohan Lal Gupta, the father of the respondent and the husband of the petitioner. It is urged that on

31.07.2012 the petitioner sold the said property for a total sale consideration of Rs.42,00,000.00 and the share of the respondent would be Rs.7,00,000.00. Hence, the suit for recovery.

3. The learned counsel appearing for the petitioner submits that the impugned order has been passed ignoring the provisions of the Order XXXVIII Rule 5 CPC. He also submits that the suit is entirely without merit inasmuch the respondent/plaintiff has executed a relinquishment deed on 03.05.2012 in favour of the petitioner and the late husband of the petitioner also left a will.

4. The learned counsel for the petitioner further submits that the written statement has not been filed and that the same with the documents will be filed before the learned trial court.

5. I have heard the learned counsel for the parties.

6. In my opinion, the trial court ought not to have disposed of the application under Section XXXVIII Rule 5 CPC. Liberty is granted to the petitioner to move an appropriate application for revocation/modification of the attachment order dated 25.01.2016 alongwith written statement. In case, any such application is filed, the learned trial court may consider the same as per law.

7. With these observations, the present petition stands disposed of.

**JAYANT NATH, J.**

**JULY 20, 2016/v**