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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 189/2016**
KAJAL BARUA

..... Petitioner

Through Ms.Namita Roy, Advocate.

versus

DINA BANDHU BARUA (SINCE DECEASED) THR LRS

..... Respondent

Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **24.02.2016**

C.M. No.6818/2016(exemption)

C.M.No.6819/2016 (exemption)

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

CM(M) 189/2016

Orders impugned before this Court are the orders dated 07.01.2016 and 04.02.2016. The first order dated 07.01.2016 had closed the evidence of the defendant and the matter was listed for final arguments. The second order dated 04.02.2016 had been passed on the application filed by the petitioner (defendant in the Trial Court) seeking a recall of the earlier order dated 07.01.2016. The impugned order had dismissed that prayer. It is stated that next date fixed before the Trial court is tomorrow.

Learned counsel for the petitioner vehemently submits that

witness from the Ministry of Urban Development would be relevant as the concerned policy about the rehabilitation of Displaced Persons from Bangladesh is the defence upon which the case of the defendant rests and this document would be very necessary for the Court to examine before final judgment is pronounced.

Trial Court had noted that similar submissions had been made by the counsel for the defendant on earlier dates also. Orders dated 26.8.2015, 15.9.2015 and 02.11.2015 as also the order dated 07.01.2016 are a part of the record. These orders clearly show that the defendant was not sure with whom this document would be; he had summoned the official from the Ministry of Rehabilitation who had informed the defendant that the work relating to Chittaranjan Park Colony had been transferred to the Land and Development office (Ministry of Works and Housing). The Court had granted liberty to the defendant to summon the official from the L & DO along with record from the office of the L&DO. It had in fact given a blanket liberty to the defendant to take steps to summon witness from all Departments where there are chances that the document related to the aforementioned policy would be found except the Departments already summoned. This was vide order dated 02.11.2015. The relevant record could not be produced.

This Court has been informed that DW-5 who had been summoned from the Office of the LAB Housing, DDA, Vikas Sadan had made a statement that the record might be with the Ministry of Urban Development. This statement has been perused. The witness (DW-5) is not sure of this stand. He has stated that this record may be with the Ministry of Urban Development.

The Trial Court has recorded the facts in the correct perspective and declined any further opportunity to the defendant to produce any witness from a department of which even the defendant till today is unsure. A query has been put to the learned counsel for the petitioner/defendant on this score i.e. about the RTI information sought to be obtained by him to which she candidly admitted that the information was sought under the RTI Act prior to the filing of the suit but not thereafter. It is open for the party to obtain information under the RTI Act. The Courts are not sitting to conduct a fishing inquiry for the benefit of a party. Petitioner even today is unsure about the Department from which this document can be obtained. The prayer made in the petition cannot be permitted, it will only delay the proceedings. Petition is accordingly dismissed.

INDERMEET KAUR, J

FEBRUARY 24, 2016

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