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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 234/2015 & C.M.No.4927/2015
LAKHMI

..... Petitioner
Through Mr. A.P.S.Gambhir and Mr. Siddharth
Yadav, Advocates
versus

DELHI DEVELOPMENT AUTHORITY & ORS

..... Respondents
Through Ms. Shahnha Farha, Mr. Rahul Dubey
and Mr. Vijaya Singh, Advocates for
DDA
Mr. N.S. Arora, Advocate for R-2
Mr. Mahesh Kumar, Advocate for R-3

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **20.01.2016**

The order impugned before this Court is order dated 15.01.2015 vide which the application filed by the plaintiff / Lakhmi under Section 151 of the CPC praying for permission to get himself re-examined was declined and rightly so.

Record shows that the present suit is suit for injunction which has been filed by the plaintiff against the defendant / DDA. This suit has been prosecuted on behalf of the plaintiff by one Bijender. He was appearing on behalf of the plaintiff and watching the interest of the plaintiff being one of the legal heirs of the deceased plaintiff.

The petitioner is aggrieved by the order declining permission to Lakhmi to be re-examined.

Learned counsel for the DDA has drawn attention of this Court to an order dated 19.04.2004 which has detailed the manner in which the proceedings were being conducted and the earlier applications filed by Lakhmi seeking permission to be re-examined also have been declined.

Perusal of the record shows that on 11.03.2005 Bijender was substituted as LR of deceased plaintiff. The earlier LRs were made as proforma defendants. On 30.05.2012 Lakhmi has moved an application under Order I Rule 8 of the CPC which was treated as an application under Order I Rule 10 of the CPC and Lakhmi was substituted as another plaintiff; earlier he had been appearing as a defendant but he has been transposed as a plaintiff. The Trial Court had noted that on 30.05.2012 Bijender who had filed his affidavit (on behalf of the plaintiff) was not turning up for his examination and on that date Lakhmi (PW13) wanted himself to be re-examined. This was declined on 19.04.2014. Thereafter another application under section 151 of the CPC had been filed making similar prayer i.e. for re-examination of Lakhmi to watch the interest of the plaintiff which already stood decided by the previous order and this permission having been already declined by way of impugned order, present application was also dismissed. This was clearly an abuse of the process of the Court and merely to delay the proceedings and as such the impugned order calls for no interference.

Petition is without any merit. Dismissed with cost quantified at Rs.10,000/-.

INDERMEET KAUR, J

JANUARY 20, 2016/gb