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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 426/2016**
SRI OM AND ANR.

..... Petitioners

Through Mr. Abhinav K. Mishra, Adv.
versus

VED PRAKASH

..... Respondent

Through Mr. T.L. Garg and Mr. Rohan Garg,
Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **20.05.2016**

Review Pet. No. 258/2016 & C.M. Nos19571-72/2016

This petition is seeking a review of the order dated 04.05.2016. The contents of the review petition have been perused. Oral arguments have also been heard. The submission of the learned counsel for the review petition is on the merits of the order which has already been penned by this Court on 04.05.2016. His submissions are in fact premised on the order which has been passed by the Trial Court which was the order dated 18.03.2016 and which was the subject matter of the present petition which had been disposed of by this Court in its 3- ½ page order dated 04.05.2016. All arguments today canvassed before this Court were appreciated by this Court on that date; the submission of the petitioner that he should be granted permission to examine two witnesses as they would be relevant for his defence has already been answered. Learned counsel for the petitioner further insists that the Court must pass an order on merits

and he has again drawn attention of this Court to the list of witnesses which had been filed by him in the Trial Court. Submission being reiterated that this Court has not answered his submission that two witnesses namely Raj Kumar Yadav and Surender Tehlan are essential to decide the defence of the petitioner.

At the cost of repetition, this submission has already been noted in the order dated 04.05.2016 and an extract of the aforementioned order on this aspect is reproduced herein as under:-

“Record shows that in the complaint case wherein pre-summoning evidence had been led there is no mention of the aforementioned persons i.e. Raj Kumar Yadav and Surender Tehlan. They had not been examined. That apart, it is a settled proposition of law that evidence cannot be beyond pleadings i.e. the averments made in the plaint, written statement and the replication.

Learned counsel for the petitioner submits that the testimony of the aforementioned two witnesses would be relevant as they would depose to the effect that the plaintiff was a director of the company Som M/s Road Lines Pvt. Ltd. and their testimony to that extent would be relevant and necessary to establish the defence set up by the petitioner. Settled position at law being that evidence cannot go beyond the pleadings; as such these witnesses would be of no relevance in the factual matrix of the instant case as in the written statement there is no such pleading. This application appears to have been filed mala fide. The impugned order suffers no infirmity. No interference is called for in the impugned order. This petition is without merit. It is dismissed with costs quantified at Rs.25,000/-.”

This petition is clearly outside the parameters of review for which the statutory provision is contained in Order XLVII read with Section 114 of the CPC. This petition is an abuse of the process of the Court. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

MAY 20, 2016

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