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

+ CM(M) 682/2016 & CM No.25266/2016

S.P.AGGARWAL Petitioner

Through Petitioner in person

versus

SMT.SAROJ SHARMA Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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19.07.2016

1. By the present petition the petitioner seeks to impugn the order dated 27.4.2015. The petitioner who is an Advocate by profession had filed a recovery suit against the respondent for Rs.1,15,000/-.

2. The petitioner appeared to give his evidence as PW1 and is said to have been cross-examined by learned counsel for the respondent on 20.1.2011 and 1.3.2011. It is the case of the petitioner that during cross-examination the respondent through her counsel put certain questions which had the effect of intentionally and wilfully defaming the petitioner. It is urged that the questions were irrelevant, false, defamatory and maligned the reputation of the petitioner and that the respondent would be liable for the consequences of defamation.

3. It is the case of the petitioner that the petitioner served on the respondent a legal notice on 12.6.2012. The respondent gave a reply on 5.7.2012. Thereafter the petitioner has filed an application under Order 8

Rules 9 and 13 CPC for bringing the said documents i.e. legal notice and reply on the Court record as according to the petitioner these were very relevant in deciding the main suit. It is also stated that the documents also contain an admission on the part of the respondent that she owes professional fees to the petitioner to the tune of Rs.10,000/-.

4. The trial Court by the impugned order perused the reply to the legal notice sent by the respondent and noted that there is an admission on the part of the respondent that they have to pay Rs.10,000/- to the petitioner. However, the trial court also noted that this fact has also been admitted by the respondent in the reply to the present application and in the written statement. Hence, the trial court concluded that the reply in question is not relevant. The trial court further held that the allegations allegedly made by the respondent in para 4 of the reply are not relevant keeping in view the issue involved in the present suit which is for recovery of Rs.1,15,000/- on account of alleged unpaid professional fees. The Court felt that in case the petitioner was of the view that a defamatory statement has been made by the respondent, the remedy lie elsewhere.

5. I have heard the petitioner in person who has taken me through the reply to the legal notice and the questions posed in the aforesaid cross-examination.

6. In my opinion, there is no infirmity in the impugned order. A perusal of the reply sent by the respondent to the petitioner in response to the legal notice dated 12.6.2012 shows that other than admitting the respondents have to pay Rs.10,000/- to the petitioner and have been ready and willing to pay the said amount but the petitioner has not accepted the same, there is nothing else in this reply to assist the petitioner in proving his stand in the recovery

suit. The respondent has in the reply denied that there was any intent to defame the petitioner by means of the cross-examination. Reference is made to a lot of other material which are entirely irrelevant and have no bearing to the suit of the petitioner.

7. It has been rightly observed in the impugned order that if the petitioner feels that the cross-examination done by the respondent is defamatory, he is free to take such steps as are permissible under law.

8. I see no infirmity in the impugned order. Petition is dismissed.

JAYANT NATH, J.

JULY 19, 2016/n