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

+ CM(M) 1343/2013

AMITA RATAN @ AMITA AND ANR

..... Petitioners

Through Mr. Braham Prakash Sharma, Adv.

versus

ABHISHEK AND ANR

..... Respondents

Through Mr. Y.P. Singh, Adv

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **19.01.2016**

The petitioner is aggrieved by the order dated 05.01.2013 vide which her application under Order 12 Rule 6 of the CPC had been declined and rightly so.

Record shows that the present suit has been filed by the plaintiff claiming her status as legally wedded wife of late Sh.Rakesh Kumar Gautam. In the written statement which was filed by the defendants, this had been vehemently objected to. It was stated that the petitioner has no locus standi and she is not the legally wedded wife of late Sh.Rakesh Kumar Gautam. Learned counsel for the petitioner submits that in the course of the proceedings before the Trial Court after the written statement had been filed, an application had been filed by the defendants seeking waiver of costs wherein they had admitted that the defendants are the step children of late Sh.Rakesh Kumar Gautam. This amounted to an admission and as such the averment would in fact go on to show that

the defendants are the children of late Sh.Rakesh Kumar Gautam. Accordingly, a decree on admission should have been passed in her favour.

This Court is not in agreement with this submission of the learned counsel for the petitioner. The admission on the basis of which a decree can follow under Order 12 Rule 6 of the CPC has to be unambiguous, clear and unequivocal. The defendants in their written statement have categorically defied the status of the plaintiff as the legally wedded wife of late Sh.Rakesh Kumar Gautam. Merely because in one line of the application, the defendants have stated that the defendants were the step children of late Sh.Rakesh Kumar Gautam would not amount to an unequivocal admission; more so when this was clarified by a subsequent reply wherein the non-applicant had submitted that this submission was made under a wrong instruction by his counsel.

The impugned order noting this factual matrix and dismissing the application under Order 12 Rule 6 of the CPC thus suffers from no infirmity. Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

JANUARY 19, 2016

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