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

+ CM(M) 790/2016 and CM No. 29920/2016 (stay)

INDER SINGH

..... Petitioner

Through

Mr.Manjit Singh Chauhan, Advocate.

versus

MEERA KUMARI & ORS

..... Respondents

Through

None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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20.09.2016

1. By the present petition, the petitioner seeks to impugn the order dated 17.05.2016 passed by the trial court dismissing the application of the petitioner/defendant No.1 for summoning of witnesses. The trial court noted the various dates on which the matter had been adjourned, namely, 21.12.2015, 02.02.2016 and 18.03.2016. Keeping in view these adjournments, the trial court held that the witnesses cannot be summoned and dismissed the application.
2. Advance copy of the petition has been sent by speed post to the respondent but none is present for the respondent.
3. Learned counsel appearing for the petitioner has pointed out that the petitioner/defendant No.1 has filed the list of witness way back in January 2015. It is submitted that only those witnesses mentioned in the list of witnesses were sought to be summoned. He submits that the cross-examination of D1W1 has yet not been completed. When the matter was

listed on 10.05.2016, the witness of the petitioner i.e. D1W1-Mr. Inder Singh was further partly cross-examined. Similarly, the statement of another witness of defendant No.2 i.e. D2W1 was also recorded. The matter was deferred for further cross-examination of D1W1 and for remaining DE. He submits that the order of 10.05.2016 itself gave an opportunity to the petitioner to lead further evidence on 15.07.2016. Hence, the petitioner had moved an application which was listed on 17.05.2016 so that the witness could be summoned for the date of the evidence already fixed i.e. 15.07.2016.

4. There is merit in the contention of the learned counsel for the petitioner. The cross-examination of D1W1 has been continuing. A perusal of the order dated 17.05.2016 itself shows that on 21.12.2015, D1W1 was cross-examined. On 02.02.2016 D1W1 was unwell. On 18.03.2016 D1W1 was present but his counsel was held up. On 10.05.2016 D1W1 was further cross-examined. In the light of these facts, it is clear that the petitioner cannot be said to be guilty of taking needless adjournments. In any case, irrespective of any delay on his part, on 10.05.2016, the matter had been adjourned to 15.07.2016 for remaining DE. By moving the present application, the petitioner was only complying with the earlier order dated 10.05.2016. Accordingly, the order dated 17.05.2016 is quashed. The petitioner is permitted to summon his witnesses as per the list of witnesses for the date to be fixed by the trial court.

5. The petition stands disposed of.

6. Copy of the order be given Dasti under the signatures of the Court Master.

SEPTEMBER 20, 2016/rb

JAYANT NATH, J