

\$~A-17

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

+ CM(M) 893/2016

KRISHAN KUMAR

..... Petitioner

Through Mr.Hitendra Nahata, Ms.Sharda
Sharma and Mr.Sahil Pahuja, Advs.

versus

RAJEEV KUMAR & ANR

..... Respondent

Through Mr.Uday Kumar, Adv.for R-1 & R-2

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

20.09.2016

1. By the present petition the petitioner seeks to impugn the order dated 17.2.2016 by which the application of the petitioner/defendant No.1 under section 151 CPC for recalling PW-1 for cross-examination was dismissed.
2. The respondents No.1 and 2 have filed the suit for rendition of accounts, permanent and mandatory injunction seeking a decree against defendant No.1 to render/submit correct statement of account in respect of rent/lease amount paid regarding suit property industrial property No.24 Block No.Z, Okhla Industrial Area Phase II, New Delhi.
3. The bone of contention is the title of the said property. As per written statement filed by defendant No.1, the property in question was transferred in favour of M/s.Kiran Valves Pvt. Limited. The documents relied upon by respondents No.1 and 2 are alleged to be false and fabricated documents.
4. Learned counsel appearing for the petitioner submits that there are only two documents which inadvertently were not put to PW-1 which are

allegedly executed by PW1 which are affidavits where certain observations are made regarding the property in question. He submits that the Plaintiff's Evidence was still continuing when the impugned order was passed.

5. Learned counsel appearing for the respondents has submitted that the said witness was cross-examined for three dates in detail and this is only a dilatory tactic adopted by the petitioner.

6. Learned counsel for the petitioner has refuted the contention of the respondent stating that cross-examination took place only on two dates and no adjournment was sought by the petitioner.

7. Perusal of the affidavit which is sought to be put to PW-1 shows that there is alleged to be some reference to the suit property. The document would be material for the defence of defendant No.1.

8. In the interest of justice, subject to payment of cost of Rs.10,000/- the present petition of the petitioner is allowed to the extent that PW-1 can be recalled only for the purpose of putting/confronting the two affidavits allegedly dated 16.5.1994 and 16.7.1994. The said PW-1 shall be subjected to cross-examination on the date to be fixed by the trial court. No adjournment shall be granted to the petitioner on that date when the matter is fixed for cross-examination of PW-1.

9. Petition stands disposed of.

10. A copy of this order be given dasti as prayed.

JAYANT NATH, J

SEPTEMBER 20, 2016

n

