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

+ CM(M) 905/2015

SUDESH MANCHANDA Petitioner
Through Mr. Sandeep Puri, Advocate with
petitioner-in-person.
versus
HARPEET SINGH & ORS Respondents
Through Mr.R.P.Parashar, Advocate for R-3

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
08.08.2016

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1. By the present petition, the petitioner seeks to impugn the order dated 01.12.2014. By the said order, the trial court noted that the plaintiff has failed to take steps for summoning the witnesses. Hence, the right of the plaintiff to summon the witnesses was closed.
2. Learned counsel appearing for the petitioner has pointed that the plaintiff has been regularly summoning the witnesses but on account of certain procedural problems, the witnesses appeared but the correct records were not brought in court. He submits that it is not a case that no steps have been taken by the petitioner. He submits that one more opportunity may be granted to summon the necessary witness.
3. Learned counsel appearing for the respondent has vehemently opposed the present petition. He relies upon the order dated 27.01.2015 whereby the review petition filed by the petitioner against the impugned order was dismissed. The trial court while dismissing the review application

had noted that there is no error apparent on the face of the record as more than seven opportunities were granted to the plaintiff to summon the relevant records by furnishing proper details.

4. A perusal of the some of the orders shows that on 19.03.2014, the witness summoned from Sub-Registrar as well as SDM Office was present in court but stated that the details of khasra number were not there and they were unable to bring the record. Similarly, on 15.09.2014, the summoned witnesses from Sub-Registrar Office, Kashmere Gate as well as Halka Patwari were present. It was however, noted that the entire record was not available with them and was lying with the different revenue departments. On that day, due to non-appearance of the plaintiff, the summoned witnesses were discharged un-examined.

5. It is admitted by the respondent that there are no interim orders passed in favour of the petitioner and against the respondent. In the interest of justice, keeping in view the fact that the petitioner has been trying to summon the witnesses in the past but for one reason or the other, the exact record could not be produced, it would be in the interest of justice that a final opportunity be granted to the petitioner to do the needful. Accordingly, the impugned order dated 01.12.2014 is set aside subject to payment of costs of Rs.3,000/-. The trial court may give one final opportunity to the petitioner to summon the relevant record/witness.

6. The present petition stands disposed of with the above directions.

JAYANT NATH, J

AUGUST 08, 2016/rb