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

+ CM(M) 971/2016 and CM No. 35492/2016 (stay)

KARAN SINGH Petitioner
Through Mr.V.P.Rana, Advocate.

versus

BIJENDER & ORS Respondents
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
27.09.2016

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1. Learned counsel appearing for the petitioner has opposed the order dated 02.06.2016 by which an opportunity has been granted to the parties to lead evidence on the additional issues framed.
2. Learned counsel has drawn my attention to the plaint filed where a specific prayer for possession has been sought for by the plaintiff. He further submits that detailed evidence was led by the petitioner regarding his relief of possession and the witnesses of the petitioner were also cross-examined in detail. He relies upon the judgment of the Supreme Court in the case of *Sri Gangai Vinayagar Temple & Anr. Vs. Meenaksi Ammal & Ors. in Civil Appeal No. 4227/2003* decided on 09.10.2014 to contend that in similar circumstances it was held that where the parties are aware of the rival cases, the failure to formally formulate an issue fades into insignificance.

3. The trial court by the impugned order has noted that though the judgment was pronounced on 25.08.2011, it was not pronounced on the fresh issues framed. When the plaint was amended, no issues were framed on the amended plaint which led to the omission of the fresh issues which have now been framed. The trial court felt it appropriate that as the fresh issues framed are distinct from the earlier issues framed, an opportunity should be given to both the parties to lead their evidence. The trial court has granted the plaintiff and defendant one opportunity to lead their evidence.

4. After some arguments, learned counsel for the petitioner submits that he apprehends that the respondent who is in possession of the suit property despite a decree in favour of the petitioner would deliberately delay the disposal of the suit by prolonging evidence on the additional issues.

5. Keeping in view the submission of the learned counsel for the petitioner, in my opinion, it is appropriate that the parties are allowed to lead additional evidence on the additional issues framed. There is no infirmity in the order of the trial court. However, the respondent shall be granted only one date of hearing to be fixed by the trial court to complete his evidence on the additional issues.

6. Learned counsel for the petitioner submits that he does not wish to lead additional evidence on the additional issues. He relies on the evidence already on record.

7. With the above observations, the present petition stands disposed of.

JAYANT NATH, J

SEPTEMBER 27, 2016

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