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

+ CM(M) 984/2016

YOGESH YADAV

..... Petitioner

Through Mr.Karan Khanna and Mr. Navjot
Kumar, Advocates.

versus

REKHA RANI & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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28.09.2016

CM Nos.35950-51/2016 (exemption)

Exemption is allowed subject to all jus exceptions.

CM(M) 984/2016 and CM No. 35949/2016 (stay)

1. By the present petition, the petitioner seeks to impugn a part of the order dated 29.08.2016 by which the application filed by the plaintiff under Order 18 Rule 17 CPC was allowed.
2. The plaintiffs/respondents No.1 and 2 have filed the present suit for permanent/perpetual injunction and for declaration with consequential relief.
3. Learned counsel appearing for the petitioner submits that earlier also the plaintiffs/respondents No.1 and 2 had filed an application seeking the same relief which was filed under Order 18 Rule 17 CPC which also dealt with a notice served upon the counsel for defendants No. 7 to 9. Trial court

while dealing with the earlier application, dismissed the same on 01.07.2014.

4. He submits that now a second application seeking the same relief has been filed. Though a specific objection had been taken by the petitioner before the trial court that in view of the dismissal of earlier application, the same application cannot be filed again, the trial court has allowed the same.

5. A perusal of the impugned order shows that the trial court has not noted any such objection raised by the petitioner while disposing of the application filed by respondents No.1 and 2.

6. As the trial court had not dealt with this submission of the petitioner, it is appropriate that the petitioner is granted liberty to approach the trial court to seek review/recall of the order dated 28.09.2016. In case such an application is filed within 10 days from today, the trial court is requested to deal with the said application as per law expeditiously.

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

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

JAYANT NATH, J

SEPTEMBER 28, 2016

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