

\$~A-42

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

+ C.R.P. 171/2016

MOHAN LAL & ANR Petitioner
Through Mr.Sounak S.Das and Mr.Mohit
Batra, Advocates

versus

RAM PRASAD Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

18.10.2016

1. Advance copy of the petition has been served by Speed Post on respondents. None is present for the respondent.
2. By the present petition the petitioner seeks to impugn the judgment dated 19.5.2016 passed by the trial court by which the trial court disposed of the application of the petitioner filed on 27.8.2014 seeking summoning of certain witnesses. The petitioner had moved an application way back in August 2014 seeking to summon (a) Secretary/President of the Low Income Friends Co-operative House Building Society Limited to bring the records containing nomination form etc. (b) concerned officer/record keeper from the office of NDMC, Civil Lines Delhi alongwith mutation record etc. and (c) private witness Kastoora Devi and Shri Naresh Malhotra.
3. The trial court noted that as far as the private persons are concerned liberty was granted to the petitioner to produce them for their deposition. Regarding the official witnesses, namely, the concerned officer from the co-

operative society and from NDMC, the trial court noted that the petitioner may file certified copies of the record relied upon and court will take judicial notice of the same as per law, if so admissible, at the time of final argument/judgment. The request of the petitioner to summon the officials was rejected in order to curtail further delay on this account.

4. Learned counsel for the petitioner submits that by merely filing certified copies an objection could be taken about admissibility of the document which are crucial to the case of the petitioner. He submits that the suit is filed for partition and it is the case of the petitioner that the nomination is in favour of the petitioner.

5. There is merit in the contention of the petitioner. The petitioners have in 2014 filed an application for summoning of the witnesses. The witnesses are also stated in the list of witnesses filed by the petitioner which was filed in 2013. Merely for the purpose of expediting the trial, the case of the petitioner cannot be jeopardised in the manner which is sought to be done. The order suffers from material irregularities and is accordingly quashed. The petitioners are permitted to summon the official witnesses noted above before the trial court for recording their evidence. The petitioner shall serve Dasti service of summons on the said witnesses.

6. Petition stands disposed of on above terms. All applications, if any, also stand disposed of.

JAYANT NATH, J

OCTOBER 18, 2016

n