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

% *Date of Decision : January 14, 2016*

+ **FAO(OS) 292/2015**

KUMARI SUSHILA YADAV Appellant
Represented by: Mr.Sanjeev Sindhvani, Sr.Advocate
instructed by Mr.Rajat Aneja and
Ms.Chandrika Gupta, Advocate

versus

LT COL (RETD) ATUL CHAUDHARY & ORS Respondents
Represented by: Ms.Pritha Srikumar Iyer, Advocate
with Mr.Nayantara Narayan,
Advocate for R-1 to R-3

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

PRADEEP NANDRAJOG, J. (Oral)

1. The respondent does not dispute that the appellant is the owner of a plot of land bearing Municipal No.E-39A, East of Kailash, New Delhi – 110065. Whereas appellant claims that the respondent No.1, who is appellant's nephew, was given permissive possession by her to reside in a portion of the building constructed on the plot shown in red colour in the plan annexed to the plaint and having revoked the permission she is entitled to a decree for possession and mesne profits; the claim of respondent No.1 is that under an oral permission granted by the appellant, from his own funds, he constructed the portion of the building which is in his occupation; possession whereof is sought and that the oral permission was with the

understanding that the respondent No.1 would be the ultimate owner thereof.

2. With these pleadings of the parties, appellant filed an application under Order 12 Rule 6 of the Code of Civil Procedure praying for a decree on admission and the case of the appellant before the learned Single Judge was that having admitted appellant's ownership and that the oral permission granted to occupy the suit property was withdrawn by the appellant, the respondent No.1 and his wife and son (impleaded as defendants No.2 and 3 in suit) were liable to be ejected forthwith. A decree on admission was prayed for.

3. With reference to Section 60(b) of the Indian Easement Act, 1882 and the law declared by the Supreme Court in the decision reported as (1987) 2 SCC 555 Ram Sarup Gupta (Dead) by LRs Vs. Bishun Narain Inter College & Ors. the learned Single Judge has held that no decree on admission could be passed for the reason the triable issue would be whether pursuant to a license granted by the appellant the respondent No.1 constructed the suit property from his own funds and thus the license was irrevocable.

4. Now, whether the permission to occupy and construct, in the facts of the instant pleadings would be labelled as a permissive act of the appellant or an oral license, would be a matter of quibbling with words for the reason if ultimately the defence succeeds and it is established that pursuant to an oral understanding the respondent No.1 was permitted by the appellant to construct the suit property and reside therein as owner thereof, it would be highly doubtful whether the appellant would obtain a decree. But we speak no further on the legal position because this aspect has not been debated fully before us today and would need a debate by applying the law considering the evidence led by the parties after trial.

5. Today, learned counsel for the appellant has taken a slightly different route by urging that the plea by respondent No.1 of having constructed the building, possession whereof is sought by the appellant, is an illusory pleading. It is vague and no triable issue would arise as per learned senior counsel for the appellant the pleading is unsupported by any document.

6. Learned counsel for the respondent refutes and urges that as noted by the learned Single Judge documents have been filed by respondent No.1 to justify the defence.

7. In rejoinder, learned senior counsel for the appellant urges that the appellant is in possession of documents to show that such portions of the building constructed on the plot of land bearing Municipal No.E-39A, East of Kailash, New Delhi – 110069 in respect whereof decree for possession is prayed for were in existence much prior to the admitted date when the first respondent and his family took possession.

8. Now, when the learned Single Judge decided the application under Order 12 Rule 6 of the Code of Civil Procedure the stage of the parties filing documents and admission/denial had not reached.

9. It being trite that an admission could be contained even in a document admitted by the opposite party and need not necessarily be in the pleadings, learned senior counsel for the appellant concedes that the appellant has jumped the gun by invoking Order 12 Rule 6 of the Code of Civil Procedure before admission/denial was done. For if the defendant No.1 admits documents which show that the construction existed prior to the date when respondent No.1 took possession of the suit property, the defence would be required to be treated as per the legal position culled out in the various decisions which we would be hereinafter noting and especially the decision

reported as 2012 (5) SCC 370 Maria Margarida Sequeria Fernandes vs Erasmo Jack de Sequeria.

10. Lest there be any confusion, the distinction between vague pleadings by a party and hence not giving birth to a triable issue and a pleading which otherwise may not be vague but is of a kind which needs to be supported by documentary evidence and remains a mere pleading sans any documentary evidence and hence not giving birth to a triable issue needs to be noted with a further addition that if a pleading of a party is contradicted by an admission of the party in a document and unless that admission is explained, the pleading would be required to be treated as sham and hence not giving birth to a triable issue needs to be elaborated.

11. In the decision reported as 2003 (5) AWC 3723 Keshav Kumar Gupta vs State of U.P. it was observed as under:-

“6. ...It is also indicated that this is one writ petition where the counter-affidavit filed by Dr. Suresh Chandra Tiwari, Deputy Director of Higher Education (Statistics), U.P., Allahabad on behalf of the Respondents is admirable as the clear facts along with elaborate provisions of law relevant to the case have been submitted at the out set before giving parawise reply to the contents of each paragraphs of the writ petition. The Government authorities are expected to file the counter-affidavit in such a way that proper and adequate assistance could be derived in respect of the facts and law for prompt adjudication of the case.”

12. In the decision reported as 1998 III AD Delhi 487 Allora Electric & Cable Co. vs M/s. Shiv Charan & Bros it was held as under:-

“11. ...The defendants in corresponding para 7 of the written statement have admitted that plaintiff had been supplying goods to them from time to time and accounts used to be settled

at the end of each year. The total purchases made and the total payments made by defendants as pleaded in paras 8 to 19 of the plaint have been denied but not specifically. Only vague denial has been made stating that the contents of such paras are either incorrect or wrong and denied. Learned counsel for the plaintiff has strongly contended that in the absence of specific denial the above said averments made in these paras of the plaint should be deemed to have been admitted as provided under Order 8 Rule 5 CPC. The object of this provision is to narrow the issues to be tried in the case and to enable either party to know what the real point is to be discussed and decided. The word “specifically” qualifies not only the word “deny” but also the words “stated to be not admitted” and therefore a refusal to admit must also be specifically stated. A defendant can admit or deny the several allegations made in the plaint and if he decides to deny any such allegations, he must do so clearly and explicitly. A vague or evasive reply by the defendant cannot be considered to be a denial of fact alleged by the plaintiff. A party is expected to expressly deny the fact which is within its knowledge and a general denial is not a specific denial.

12. ...Evasive or vague denial of fact in the written statement of such facts should be taken to be no denials and so deemed to be admitted. On that principle in the absence of specific and unambiguous denial and the denial here being vague, the averments made in paras 8 to 19 should be deemed to have been admitted by the defendants.”

13. In the decision reported as (2004) 49 SCL 597 Official Liquidator of Amfort Agro Finance Ltd. vs Shishpal Singh it was held as under:-

“7. Reply to this application is filed by the respondent. It is not a parawise reply. Thus the averments made in Para No. 7 stand uncontroverted.”

14. In the decision reported as 2003 (96) FLR 722 Rajesh Singh vs M.P. Rajya Krishi Vipnan Board it was held as under:-

“4. ...The return filed by the respondent No. 4 is cryptic. There is no parawise reply. Therefore, the averments made in the petition which have not been specifically denied will be deemed to have been admitted.”

15. On November 21, 2011 this Court while deciding RFA (OS) 78/2011 P.K. Gupta vs Ess Aar Universal (P) Ltd. held as under:-

“11. We need to highlight that the fundamental principles, essential to the purpose of a pleading is to place before a Court the case of a party with a warranty of truth to bind the party and inform the other party of the case it has to meet. It means that the necessary facts to support a particular cause of action or a defence should be clearly delineated with a clear articulation of the relief sought. It is the duty of a party presenting a pleading to place all material facts and make reference to the material documents, relevant for purposes of fair adjudication, to enable the Court to conveniently adjudicate the matter. The duty of candour approximates uberrima fides when a pleading, duly verified, is presented to a Court. In this context it may be highlighted that deception may arise equally from silence as to a material fact, akin to a direct lies. Placing all relevant facts in a civil litigation cannot be reduced to a game of hide and seek. In the decision reported as 2011 (6) SCALE 677 Rameshwari Devi vs. Nirmala Devi the Supreme Court highlighted that pleadings are the foundation of a claim of the parties and where the civil litigation is largely based on documents, it is the bounden duty and obligation of the Trial Judge to carefully scrutinize, check and verify the pleadings and the documents filed by the parties.

12. Highlighting that pleadings must be sufficient and consequence of laconic pleadings, which cannot be permitted, and the failure to plead sufficient details amounting to an insufficient plea, in the decision reported as AIR 1999 SC 1464 D.M. Deshpande vs Janardhan Kashinath Kadam, the Supreme Court observed qua a claim for tenancy that in the absence of a concise statement of material facts relating to the tenancy, the mere raising of a plea of tenancy is not enough for the purpose of raising an issue on the question. The Court cautioned

against a pedantic approach to the problem and directed that the Courts must ascertain the substance of the pleading and not the form, in order to determine the same. It was observed that pertaining to a claim of tenancy, the exact nature of the right which is claimed has to be set-forth and no issue pertaining to existence of tenancy could be framed on a vague plea.”

16. In the decision reported as 2012 (5) SCC 370 Maria Margarida Sequeria Fernandes vs Erasmo Jack de Sequeria it was held as under:-

“72. The Court will examine the pleadings for specificity as also the supporting material for sufficiency and then pass appropriate orders.

x x x

74. If the pleadings do not give sufficient details, they will not raise an issue, and the Court can reject the claim or pass a decree on admission. On vague pleadings, no issue arises. Only when he so establishes, does the question of framing an issue arise. Framing of issues is an extremely important stage in a civil trial. Judges are expected to carefully examine the pleadings and documents before framing of issues in a given case.

x x x

78. The Court must ensure that pleadings of a case must contain sufficient particulars. Insistence on details reduces the ability to put forward a non-existent or false claim or defence.”

17. In the decision reported as 2012 (6) SCC 430 A. Shanmugam vs Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam it was held as under:-

“27. The pleadings must set-forth sufficient factual details to

the extent that it reduces the ability to put forward a false or exaggerated claim or defence. The pleadings must inspire confidence and credibility. If false averments, evasive denials or false denials are introduced, then the Court must carefully look into it while deciding a case and insist that those who approach the Court must approach it with clean hands.”

18. In the decision reported as 2012 (10) SCALE 330 Kishore Samrite vs State of U.P. it was held as under:-

“32. ...The parties must state forthwith sufficient factual details to the extent that it reduces the ability to put forward false and exaggerated claims and a litigant must approach the Court with clean hands.

33. ...While approaching the court, a litigant must state correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. A litigant is bound to make “full and true disclosure of facts”.

19. On the question of principle as far back as 1816, in the decision reported as (1816) 5 M&S 2016 R. vs Turner it was held as under:-

“...I have always understood it to be a general rule, that if a negative averment be made by one party, which is peculiarly within the knowledge of the other, the party within whose knowledge it lies, and who asserts the affirmative is to prove it, and not he who avers the negative I cannot help thinking, therefore that the onus must lie on the defendant, and that when the prosecutor has proved everything, which, but for the defendant’s being qualified, would subject the defendant to the penalty, he has done enough; and the proof of qualification is to come in as a matter of defence.”

20. In 1872, the statute, Section 106 of Evidence Act, provided:

“106. Burden of proving facts especially within knowledge. –

When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustrations:

(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

The 'railway ticket' in illustration (b) is, in our case, the equivalent of a 'pre-27.09.1974' partnership deed and supporting records."

21. Similar is the purport of Section 114 of the Evidence Act (which provides that the Court may presume existence of certain facts) where illustration (g) provides that the Court may presume that evidence which could be and is not produced would, if produced, be unfavourable to the person, who withholds it.

22. In 1903, the US Supreme Court in the decision reported as 191 U.S. 84 *United States vs Denver & Rio Grande Railroad Company*, said:

"Upon principle as well as upon authority, a party who has been shown to be prima facie guilty of a trespass, and relies upon a license, must exhibit his license, and prove that his acts were justified by it. The practical injustice of a different rule is manifest.

It is a general rule of evidence, noticed by the elementary writers upon that subject (1 Greenl. Ev. §79) that 'where the subject-matter of a negative averment lies peculiarly within the knowledge of the other party, the averment is taken as true unless disproved by that party.' When a negative is averred in pleading, or plaintiff's case depends upon the establishment of a negative, and the means of proving the fact are equally within

the control of each party, then the burden of proof is upon the party averring the negative; but when the opposite party must, from the nature of the case, himself be in possession of full and plenary proof to disprove the negative averment, and the other party is not in possession of such proof, then it is manifestly just and reasonable that the party which is in possession of the proof should be required to adduce it; or, upon his failure to do so, we must pre-sume it does not exist, which of itself establishes a negative.

Familiar instances of this are where persons are prosecuted for doing a business, such, for instance, as selling liquor without a license. It might be extremely difficult for the prosecution in this class of cases to show that the defendant had not the license required, whereas the latter may prove it without the slightest difficulty. In such cases the law casts upon the defendant not only the burden of producing his license, but of showing that it was broad enough to authorize the acts complained of.

As the license (the statute in this case) authorized the timber to be cut only for a specific purpose, and the means of proof as to the purpose for which the timber was cut were peculiarly within the knowledge and control of the defendant, we think the burden of producing evidence to that effect devolved upon it."

23. In the decision reported as 1943 All. ER 800 R. vs Oliver, it was observed that the accused was charged with having sold sugar as a wholesale seller without the necessary licence. Relying on 106 ER 1026 R. vs Turner, it was held that whether the accused had a licence was a fact peculiarly within his own knowledge and proof of the fact that he had a licence lay upon him. It was further held that in the circumstances of the case the prosecution was under no necessity to give prima facie evidence of non-existence of a licence.

24. In the decision reported as AIR 1917 PC 6 Murugesam Pillai vs Gnana Sambandha Pandara Sannadhi, it was held as under:-

“A practice has grown up in Indian Procedure of those in possession of important documents or information lying by, trusting to the abstract doctrine of the onus of proof, and failing, accordingly, to furnish to the Courts the best material for its decision. With regard to third parties, this may be right enough – they have no responsibility for the conduct of the suit, but with regard to the parties to the suit it is, in their Lordships’ opinion, an inversion of sound practice for those desiring to rely upon a certain state of facts to withhold from the Court the written evidence in their possession which would throw light upon the proposition.”

25. In the decision reported as (1974) 2 SCC 544 Collector of Customs, Madras vs D. Bhoormull, proceedings were initiated under Section 167(8)(c) of the Customs Act for confiscation of contraband or smuggled goods and it was observed:-

“31. Since it is exceedingly difficult, if not absolutely impossible for the prosecution to prove facts which are especially within the knowledge of the accused, it is not obliged to prove them as part of its primary burden.

On the principle underlying Section 106 Evidence Act, the burden to establish those facts is cast on the person concerned; and if he fails to establish or explain those facts, an adverse inference of facts may arise against him, which coupled with the presumptive evidence adduced by the prosecution or the Department would rebut the initial presumption of innocence in favour of that person, and in the result prove him guilty.”

26. In the decision reported as (2000) 8 SCC 382 State of W.B vs Meer Mohd. Umar, it was held that the legislature engrafted special rule in Section

106 of the Evidence Act to meet certain exceptional cases in which not only it would be impossible but disproportionately difficult for the prosecution to establish such facts which are specially and exceptionally within the exclusive knowledge of the accused and which he could prove without difficulty or inconvenience. This principle was reiterated in the decision reported as AIR 2001 SC 979 Sanjay vs State (NCT of Delhi) and AIR 2002 SC 2017 Ezhil vs State of Tamil Nadu.

27. In the decision reported as (2005) 5 SCC 665 Sarbananda Sonowal-I vs Union of India, the Supreme Court held:

“26. There is good and sound reason for placing the burden of proof upon the person concerned who asserts to be a citizen of a particular country. In order to establish one's citizenship, normally he may be required to give evidence of (i) his date of birth (ii) place of birth (iii) name of his parents (iv) their place of birth and citizenship. Some times the place of birth of his grand parents may also be relevant like under Section 6-A(1)(d) of the Citizenship Act. All these facts would necessarily be within the personal knowledge of the person concerned and not of the authorities of the State. After he has given evidence on these points, the State authorities can verify the facts and can then lead evidence in rebuttal, if necessary. If the State authorities dispute the claim of citizenship by a person and assert that he is a foreigner, it will not only be difficult but almost impossible for them to first lead evidence on the aforesaid points. This is in accordance with the underlying policy of Section 106 of the Evidence Act which says that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

27. Though in a criminal case the general rule is that the burden of proof is on the prosecution but if any fact is especially within the knowledge of the accused, he has to lead evidence to prove the said fact.”

28. In the decision reported as (2007) 1 SCC 174 Sonowal-2, the Supreme Court held:

“28 This Court opined:

(i)Section 9 of the 1946 Act regarding burden of proof is basically on the same lines as the corresponding provision is in U.K. and some other Western nations and is based upon sound legal principle that the facts which are peculiarly within the knowledge of a person should prove it and not the party who avers the negative.”

29. In Sonowal-1, this Court clearly held that the burden of proof would be upon the proceedee as he would be possessing the necessary documents to show that he is a citizen not only within the meaning of the provisions of the Constitution of India but also within the provisions of the Citizenship Act.

30. In the decision reported as 2003 ACJ 1274 National Insurance Co. vs Brij Pal Singh, a DB of the Allahabad High Court noted:

“23. ...the burden of proof that the driver of the truck had a valid and effective driving licence would be entirely upon the owner of the truck. The said burden can never be shifted to the insurance company, as it cannot be asked to discharge a negative burden with regard to a fact which is especially within the knowledge of the driver, who is an employee of the owner of the vehicle.

22. In sum, a fundamental of justice delivery and adjudication is where the averment, and therefore the issue, is about the non-existence of a fact, and where factual details and documents must be within the knowledge of the other, it is a general rule that it is for that other to place the affirmative facts and produce documents.

31. To a plaint (or a writ petition) with positive averments of a negative fact, what is expected in a written statement (or counter affidavit) so as to constitute an answer, has been clarified by Supreme Court in the decision reported as (2003) 1 SCC 18 Vithal N. Shetti vs Prakash N. Rudrakar it was held as under:-

“8. The plaint makes a positive averment of a negative fact, that is, the absence of consent in writing of the landlord to raising of the permanent structure by the tenant over the tenancy premises. In the wake of such averment in the plaint, it was necessary for the tenant to have raised specific pleading in the written statement setting out the particulars of the consent in writing. Not only the particulars are not pleaded but event the factum of the landlord having given a consent in writing to the permanent construction is not stated. There is not even a whisper in the written statement of such consent, on which the tenant relies, having been ever given by the landlord and forming part of the record of the Municipal Corporation. Similarly, no effort for production of the alleged consent on writing of the landlord appears to have been made during the pendency of the proceedings before the appellant court. In this background, the High Court rightly declined to show its indulgence to a belated prayer for summoning the record from the custody of the Municipal Corporation.

Stated jurisprudentially, this decision only restated the principle behind Section 106 of Evidence Act in its application to pleadings.”

32. Independent of, and in addition to, sufficiency of details in the pleadings is the production of documents. Unlike as in the nineteenth century, today the documents and records hold the key. A party who can produce, but does not produce, the documents, makes no case.

33. In the decision reported as AIR 1964 SC 1714 Karamshi Jethabhai

Somayya vs The State of Bombay it was held as under:-

“6. ...Apart from the fact that the appellant asked for the production of all the relevant documents, the Government, being the defendant in this case, should have produced the documents relevant to the question raised. While it is the duty of a private party to a litigation to place all the relevant matters before the Court, a higher responsibility rests upon the Government not to withhold such documents from the court.”

34. In the decision reported as AIR 1968 SC 1413 Gopal Krishnaji Ketkar vs Mahomed Haji Latif it was held as under:-

“5. ...We are unable to accept this argument as correct. Even if the burden of proof does not lie on a party the Court may draw an adverse inference if he withholds important documents in his possession which can throw light on the facts at issue. It is not, in our opinion, a sound practice for those desiring to rely upon a certain state of facts to withhold from the Court the best evidence which is in their possession which could throw light upon the issues in controversy and to rely upon the abstract doctrine of onus of proof.”

35. The Court quoted with approval the Privy Council dictum in Murugesam Pillai vs Gnana Sambandha Pandara Sannadhi (supra).

36. In the decision reported as ILR 1980 HP 516 State of Himachal Pradesh vs Jiwan Singh it was held as under:-

“19 ...It is now well settled that where a party is in possession of material documents which are necessary to be produced for the determination of the controversy between the parties, it is the duty of that party to produce the same irrespective of the fact that the burden of proof may be on the opposite party.”

37. In the decision reported as 71 (1998) DLT 1 S.P.Chengalvaraya

Naidu vs Jagannath it was held as under:-

“8. ...Non production and even non-mentioning of the release deed at the trial tantamounts to playing fraud on the Court. A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side than he would be guilty of playing fraud on the Court as well as on the opposite party.”

38. In the decision reported as 71 (1998) DLT 1 Satish Khosla vs M/s. Eli Lilly Ranbaxy Ltd it was held as under:-

“16. ...In our view, the arguments are wholly fallacious. A party must come to the Court with clean hands and must disclose all the relevant facts which may result in appreciating the rival contentions of the parties. In our view, a litigant, who approaches the Court, must produce all the documents which are relevant to the litigation and he must also disclose to the court about the pendency of any earlier litigation between the parties and the result thereof.”

39. In the decision reported as 139 (2005) PLR 269 Krishan Lal Kacker vs Ram Chander it was held as under:-

“7. ...A litigant who approaches the Court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document or information in order to gain advantage on the other side then he would be guilty of playing fraud on the Court as well as on the other party.”

40. In the decision reported as AIR 1940 Calcutta 331 Gobinda Mohun Roy vs Magneram Bangur & Co. it was held as under:-

“In the case with which we are now dealing it must have been obvious not only to the parties concerned but also to the presiding Judge that the decision of the matter would depend to a very large extent upon documentary evidence and that,

therefore, this was essentially a case in which recourse should have been taken to the provisions of O.11, Civil P.C. It is, therefore, difficult to understand why in the absence of any application to this effect by either of the parties, the learned Munsif did not himself record the requisite orders for this purpose under S.30, Civil P.C., as enjoined by para 153 of the Court's Civil Rules and Orders, which have been quoted above."

41. In the decision reported as AIR 1986 Madhya Pradesh 19 Vinod Kumar vs Santi Devi it was held as under:-

"7. ...Where from the pleadings it is obvious that the decision of the matter would depend to a very large extent upon the documentary evidence, the case is essentially one in which recourse should be taken to the provisions of this Order and the Court should not refuse the application of the parties for discovery of all documents. In fact, in such cases even in the absence of an application to this effect by either of the parties, the trial Court should himself record the requisite orders."

42. In all judicial adjudication in our courts, it is: (1) fact; (2) law; and (3) application of law. The first (fact) has three sub-elements: (1.i) pleadings; (1.ii) documents; and (1.iii) evidence, for then follow: (2) law (selection & interpretation); and (2) application of law to the facts as established. Facts and documents are the very base while material facts (with requisite degree of detail) come through pleadings. Documents are produced where fortunately the cheap photocopier has made that simple.

43. The pleadings in the instant case on which decree for admission was prayed for by the appellant rightly justify denial of a decree on admission and to that extent the impugned order is upheld. But since the appellant jumped the gun by not waiting for the stage to be reached when documents were filed by the parties and admission/denial was done, and since the law is

that an application for a decree on admission can be filed at any stage of the proceedings, because Order 12 Rule 6 itself uses the expression '*the Court may at any stage of the suit*', should the appellant come across an admission by the respondent No.1 in any document filed by the appellant which during admission/denial is admitted by respondent No.1, the appellant would be entitled to file a fresh application under Order 12 Rule 6 of the Code of Civil Procedure bringing fourth in the said application the specific admission claimed by the appellant as entitling her to a decree on an admission.

44. The appeal is dismissed with legal position noted that dismissal of the appeal would not preclude the appellant to file a fresh application praying for a decree on admission after admission/denial of the documents is done.

45. No costs.

CM No.10179/2015

Dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(MUKTA GUPTA)
JUDGE

JANUARY 14, 2016

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