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

+ CM(M) 1127/2016 , CM Nos.41711 & 41818/2016

RAM SWAROOP AGGARWAL (SINCE DECEASED)

THR HIS LEGAL HEIRS Petitioner

Through Mr.Gurmehar S.Sistani,
Mr.R.K.Sharma and Ms.Dezy Gaur, Advocates

versus

RAM GOPAL Respondent

Through Mr.Munish Gupta and
Mr.PradeepKumar, Advocates with respondent in
person

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **30.11.2016**

1. By the present petition the petitioner seeks to impugn the order dated 26.5.2016 to the extent that application of the petitioner under Order 6 Rule 17 CPC was dismissed.
2. The respondent has filed an Eviction Petition under section 14(1)(e) of the Delhi Rent Control Act. The leave to defend has been granted to the petitioner. The petitioner has filed his written statement. An application under Order 6 Rule 17 which was filed by the petitioner to bring on record the fact that the respondent/landlord has constructed/re-constructed the building in question i.e. added first floor and second floor and had re-constructed the ground floor and has regularised the same. Hence, additional accommodation is now available to the respondent.
3. The trial court dismissed the application holding that the written

statement was filed on 2.7.2015. The proposed amendment pertain to the year 2010 and 2012 meaning thereby that the facts were well within the knowledge of the petitioner at the time of filing the written statement.

4. I have heard learned counsel for the parties. Learned counsel for respondent has pointed out that the plea which is sought to be raised in the present application under Order 6 Rule 17 has already been pleaded by the petitioner in his written statement in paragraph 8.

5. Learned counsel appearing for the petitioner has refuted the same pointing out that though in the written statement what is mentioned is about construction of the additional accommodation but the fact that it has been regularised to MCD has not been mentioned.

6. After some arguments it has been agreed between the parties that the petitioner shall have liberty to summon concerned official from the concerned Municipal Corporation to prove his submission that the alleged additional construction has been regularised. He would also have liberty to confront the witnesses of the respondent in the cross-examination on this fact.

7. Same procedure would be followed regarding the suit for permanent injunction filed by the petitioner to restrain the respondent from raising illegal construction. The record/report of the Local Commissioner can be summoned by the petitioner from the concerned court. Similarly, these facts can be confronted to the witnesses of the petitioner.

8. Present petition stands disposed of. All pending applications, if any, also stand disposed of.

JAYANT NATH, J.

NOVEMBER 30, 2016/n