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

+ CM(M) 1294/2016

RAJBIR SINGH

..... Petitioner

Through Mr.S.K.Gupta and Mr.B.Singh,
Advocates with petitioner

versus

SHIV KUMAR (NOW DECEASED) THR LRS..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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16.12.2016

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the orders dated 24.5.2016 and 16.7.2016 by which an application filed by the petitioner to lead additional evidence by examining one Shri Pramod Kumar and to file additional documents was dismissed. Subsequently, an application to recall the first order dated 24.5.2016 was also dismissed.

2. The respondent has filed a suit for possession of a plot No.28, Abadi of F-Block (Phase-10), Gali No.2, Opposite Ram Lila Maidan, Shiv Vihar, Karawal Nagar, Delhi. The plot is said to measure 50 sq.yards and it was stated that the petitioner has in conspiracy with the land grabbers unauthorisedly occupied the said plot. The defendant/petitioner filed his written statement where a plea is taken that the petitioner is residing in the property and is actual owner and has constructed a boundary wall and one small room in the said property.

3. Now, the petitioner claims that the area owned by the

respondent/plaintiff is actually 228 sq.yds. It is stated that before filing of the suit in 2009 the respondent sold 117 sq. yards including the plot of suit property to one Shri Pramod Kumar. As usual the same is through unregistered documents like Agreement to Sell, Power of Attorney etc. The consideration also appears to have been paid in cash. What the petitioner now wants to submit is that the respondent has sold the said areas and hence these documents may be permitted to be brought on record. He also wants to examine Shri Pramod Kumar regarding an alleged sale.

4. Learned counsel for the petitioner admits that the respondent has sold adjoining areas i.e. adjoining the suit property, of which he was an owner.

5. In case the sales have been effected by the respondent of properties other than the suit property the said sale transaction would have no relevance to the present petition. As rightly observed by the impugned order, the evidence of the petitioner was closed on 28.1.2015. At this belated stage, to try and bring on record documents which have no bearing on the suit property is misconceived. There is no infirmity in the impugned order.

6. Petition is accordingly dismissed. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

DECEMBER 16, 2016

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