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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1217/2015 & C.M. No.30120/2015**
RAFIQUE MOHAMMAD

..... Petitioner

Through Mr. S.P. Singh Chauhan and Mr.
Uddhav Pratap, Advs.

versus

SUBHASH CHANDER & ORS

..... Respondents

Through Mohd. Ikram, Adv. for R-1.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **15.03.2016**

The petitioner is aggrieved by the order dated 09.10.2015 wherein on his application under Order XIV Rule 5 of the CPC seeking framing of additional issue was declined and rightly so.

Record shows that the present suit is a suit for possession and mesne profits. Issues were framed on 18.01.2011. That order was never challenged. The present application under Order XIV Rule 5 of the CPC came to be filed after three years i.e. in the year 2014. The additional issues sought to be framed are 10 in number and this Court is of the view that in view of issues already framed, issue No. 5 would cover the additional issues which are numbered as issues No. 1, 2, 3 5 & 6.

This Court has however been informed that the plaintiff's evidence already stands completed. The clock cannot now be set back; the evidence of the plaintiff already stands completed; this Court is of the considered view that this application has been filed only to delay the

proceedings and to derail them which is not permitted.

Even presuming that there is no period of limitation for filing an application seeking amendment of issues (as has been argued by the learned counsel for the petitioner in view of the judgment reported as 70 (1997) DLT 761 D. Lonic India Pvt. Ltd. Vs. Bhardwaj Engineering), this Court is of the view that in the factual matrix of the instant case, the application under Order XIV Rule 5 of the CPC was rightly dismissed. At the cost of repetition, the additional issues sought to be framed are already covered by the issues which stood framed on 18.01.2011.

Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

MARCH 15, 2016

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