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

+ CM(M) 23/2017

M/S ATMA RAM PROPERTIES PVT LTD Petitioner

Through Mr.Amit Sethi, Advocate

versus

H K OBEROI (SINCE DECEASED) THR

HIS LR & ANR

..... Respondent

Through Mr.Arpit Shukla, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **09.01.2017**

1. By the present petition under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 18.10.2016 by which an application filed by the petitioner under Order 7 Rule 14 (1) & (3) of CPC was dismissed. The petitioner filed the suit seeking a decree of mandatory and permanent injunction against respondent No.1 directing him to restore the premises to its original condition and further to get the past misuse regularized by L&DO.

2. By the present application the petitioner sought to bring on record two documents, namely, office copy of legal notice dated 22.12.1993 issued by the original plaintiff to Shri H.K.Oberoi and reply dated 3.1.1994 of Shri H.K.Oberoi/respondent No.1.

3. The trial court noted that the suit had been instituted on 5.4.1995 and thereafter the petitioner had taken years to lead evidence and the same is not yet complete. Earlier also a similar application was filed on 27.2.2016 which was allowed and the petitioner has again come with the present application.

The trial court concluded that the petitioner is trying to delay the matter and scuttle the proceedings by filing one application after the other. It also noted the objection of the respondents and observed that there is no authority in favour of the person who has moved the present application.

4. Learned counsel appearing for the petitioner submits that as far as delay part is concerned, the observations of the trial court are misplaced as though the suit has been instituted in 1995, the respondent No.1 filed written statement in 2010 and issues were framed on 7.2.2011. Thereafter both parties have also filed applications. Hence, he submits that the petitioner cannot be blamed for the delay in disposal of the suit. On the question of authority of the person who has filed this application he points out that copy of the resolution dated 30.7.1994 being the Minutes of the Meeting of Board of Directors petitioner are already on record authorising the signatory Shri Chander Mohan Chadha to institute and prosecute any cases etc. He submits that based on this resolution the earlier application had also been filed by the petitioner which the trial court had allowed on 25.4.2016.

5. On the issue of authority, in my view the trial court has given no grounds or reasons as to why the person who has filed the application does not have authority to move the application. Copy of an appropriate resolution being on record, the observation is incorrect.

6. One of the main reasons for dismissing the application of the petitioner was that the person who signed the application had no authority. This reason is erroneous. Accordingly, it would be in the interest of justice to grant liberty to the petitioner to move a fresh application seeking review/recall of the impugned order. In case such an application is filed the trial court may consider the same as per law. Learned counsel for the

petitioner submits that he will move an application tomorrow itself when the matter is listed.

7. Petition stands disposed of. All pending applications, if any, also stand disposed of.

8. A copy of this order be given dasti under signatures of the Court Master.

JAYANT NATH, J

JANUARY 09, 2017

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