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

+ CM(M) 145/2017

INDERJEET

..... Petitioner

Through Mr.Durgesh Gupta, Adv.

versus

LAKHI RAM (SINCE DECEASED THR LRS)..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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22.02.2017

CM Nos.4739-4740/2017

Exemption allowed, subject to all just exceptions.

CM(M) 145/2017 & CM No.4738/2017

1. By the present petition the petitioner under Article 227 of the Constitution of India the petitioner seeks to challenge the order dated 7.12.2016 by which his application under Order 8 Rule 10 CPC to place on record additional documents has been dismissed. The respondent has filed a suit for possession regarding the suit property. The petitioner's defence taken in the written statement is that the brother of the respondent/plaintiff late Shri Chiranjil Lal was the owner of the suit property and he sold the said property to the petitioner after taking a consideration of Rs.3,50,000/-. The petitioner now wants to place on record a Mukhtarnama and a receipt to evidence this transaction.

2. The trial court noted that the evidence of the petitioner has already

been tendered and the witness has been examined on 8.10.2008 and that even in the affidavit the said documents have not been placed. The application was dismissed.

3. I have heard learned counsel for the petitioner.

4. The evidence of the respondent/plaintiff is complete. Further, a perusal of the written statement would show that what has been urged is that the brother of the respondent had sold the property to the petitioner for Rs.3,50,000/-. There is no mention of any document or of the nature of documentation that was done at that time to evidence the so-called sale. Now after plaintiff/respondent has completed the evidence the petitioner seeks to produce documents, namely Mukhtarnama and receipt to claim that the transaction was backed by appropriate documents.

5. In my opinion, the petitioner cannot be allowed to change the nature of his evidence in this manner. The evidence of the respondent is already over. They cannot be caught by surprise by introducing documents, at this stage. There are no reasons to interfere with the views taken by the trial court. The petition is dismissed. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

FEBRUARY 22, 2017

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