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

+ C.R.P. 50/2017 and CM No. 7895-97/2017

NIRMAL SINGH Petitioner
Through Mr.Amit Tomar, Advocate.

versus

DESHRAJ SALUJA & ANR Respondents
Through Mr.Kunal Kalra, Advocate for R-1.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
09.03.2017

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1. By the present petition filed under Section 115 CPC, the petitioner seeks to impugn the order dated 23.01.2017 by which his application filed under Order 18 Rule 17 CPC was dismissed.
2. Respondent No.1 has filed the present suit seeking a decree of mandatory injunction to direct defendant No.1/petitioner to restore the guardroom and kitchen on the lower ground floor of the suit property and to direct the petitioner to remove the constructions/encroachment from the parking space. Other reliefs are also sought.
3. By the present application filed under Order 18 Rule 17 CPC, the petitioner urged that on 26.12.2016, respondent No.1/ plaintiff appeared and tendered his evidence by way of affidavit. The said witness was cross-examined. Thereafter, the cross-examination was deferred to 09.01.2017. On 09.01.2017, the cross-examination of the said witness i.e. PW-2 continued.

It is submitted that inadvertently, the petitioner missed to cross-examine the said witness on a few important and relevant facts. Hence, the present application has been filed.

4. The trial court has dismissed the application noting that PW-2 has been cross-examined at length on different dates and there is no occasion for the petitioner/defendant to seek permission to recall the said witness on the pretext of inadvertence.

5. It is manifest that the petitioner has cross-examined PW-2 on two separate dates. There can be no reason to differ with the view expressed by the trial court.

6. The petition is dismissed.

7. All pending applications also stand dismissed.

JAYANT NATH, J

MARCH 09, 2017

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