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

+ CM(M) 271/2016

JAGAT RAM

..... Petitioner

Through: Mr.Archit Upadhyay, Advocate for
Mr.Rahul Sharma, Advocate.

versus

D D A

..... Respondent

Through: Mr.Dhanesh Relan, Advocate for
DDA.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
18.05.2017

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CM(M) 271/2016

1. The petitioner/plaintiff has invoked the extraordinary jurisdiction of this Court under Article 227 of the Constitution of India impugning the order dated 22nd September, 2015 whereby the learned Trial Court was pleased to close the plaintiff's evidence.

2. Heard learned counsel for the parties.

3. The case of the petitioner is that he suffered paralytic attack and therefore he executed Power of Attorney in favour of his son Dalbir Singh to pursue the case. Since Sh. Dalbir Singh was murdered, the petitioner executed a fresh Special Power of Attorney in favour of his grandson Sh.Shakti Singh Sejwal to prosecute the case. Sh.Shakti Singh Sejwal filed his affidavit by way of evidence on 3rd December, 2014 but could not tender

the same in Court on two dates of hearing i.e. 29th June, 2015 and 22nd September, 2015 and thereafter plaintiff's evidence was closed by the learned Trial Court.

4. Learned counsel for the petitioner submits that since the affidavit of PW-3 has already been filed, his prayer is limited to the extent that one opportunity may be granted to the petitioner to examine PW-3 and petitioner is ready to abide by the conditions, if any, imposed by this Court while considering his prayer.

5. Learned counsel for the respondent though opposed the prayer of the petitioner but submits that to cut short the controversy, one opportunity may be given to the petitioner to examine PW-3, subject to payment of cost.

6. In view of the submissions made by learned counsel for the parties, the petition is allowed to the extent that one opportunity is granted to the petitioner to examine PW-3, subject to payment of cost of Rs.10,000/- to be paid to the respondent on the next date of hearing fixed before the learned Trial Court. PW-3 – the Special Power of Attorney of the petitioner shall appear on the next date of hearing before the learned Trial Court for his examination.

7. It is directed that no further adjournment shall be given to the petitioner for the above purpose by the learned Trial Court. However, in case the Presiding Officer happens to be on leave on that date, the matter shall be listed on the next working day for the said purpose.

8. Petition stands allowed in above terms.

9. It is made clear that if cost is not paid by the petitioner to the respondent on the next date of hearing, this petition shall stand dismissed.

10. A copy of this order be sent to the concerned Trial Court for information and compliance.

11. As prayed, copy of the order be given dasti to learned counsel for the parties.

CM No.10380/2016

Dismissed as infructuous

PRATIBHA RANI, J.

MAY 18, 2017/ 'st'