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

+ **CM(M) 741/2016 & CM No.27894/2016 (stay)**

BHAJINDER SINGH

..... Petitioner

Through Mr.Kunal Kalra and Ms.Megha Jain,
Advocates

versus

HARDEV SINGH & ORS

..... Respondent

Through Mr.Neeraj Kr.Singh, Advocate for
R-1
Ms.Shobha Gupta and Ms.Sapndna, Advocates for
R-2/MCD
Ms.Jyoti Taneja, Advocate for R-3

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

25.01.2017

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1. By the present petition filed under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 4.3.2016 by which the application filed by the petitioner/defendant No.1 under Order 8 Rule 1 CPC read with Order 18 Rule 17 CPC was dismissed. Respondent No.1 has filed the present suit for permanent and mandatory injunction to restrain defendant No.1/petitioner from encroaching upon the municipal park, sewer of respondent No.2/MCD and an MTNL box by constructing a boundary wall around the same. Other connected reliefs are also sought.

2. Petitioner filed the application under Order 8 Rule 1A(3) CPC read

with Order 18 Rule 17CPC to bring on record (i) demarcation report dated 16.4.2012 conducted by the office Kanungo and (ii) rectification deed dated 22.3.2010. It is averred that the petitioner has got the demarcation conducted through concerned revenue officials of Patel Nagar in February 2010 and the demarcation report was provided. However, it is claimed that the said documents were lost somewhere in the house and could be traced out only in 2012 and hence they are being produced, at this stage. The trial court, however, dismissed the application holding that the documents have been obtained by the petitioner in 2010 and even if they were missing photocopies could have easily been obtained and hence dismissed the application.

3. I have heard learned counsel for the parties. Learned counsel appearing for the Municipal Corporation, namely, respondent No.2 has pointed out that in the written statement they have supported the case of respondent No.1, namely, that there is an encroachment on MCD land.

4. What essentially the petitioner seeks to produce are government records, namely, the demarcation report. Though there is delay in filing the same, given the nature of the record they may be allowed to be placed on record. It would be in the interest of justice that a last opportunity is granted to the petitioner to place these documents on record. The petitioner would also be allowed to examine two witnesses, one from SDMC Revenue Department, Patel Nagar and one from concerned Sub Registrar Office, Janakpuri to prove these documents. Hence, the application of the petitioner is allowed subject to payment of costs of Rs.10,000/- to be paid equally to counsel for respondents No.1, 2 and 3 herein. The petitioners shall not be granted any adjournment on the dates which the trial court fixes for leading

of evidence of the petitioner.

5. With the above, the present petition stands disposed of. The trial court is requested to expeditiously dispose of the suit preferably within a period of nine months from today.

JAYANT NATH, J

JANUARY 25, 2017

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