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

+ CM(M) 437/2017, CM Nos. 14907/2017 & 14908/2017

SANDHYA MALANI Petitioner

Through: Mr.Ashish Lal, Mr.Raghav and
Ms.Anushka, Advocates.

versus

AMIT ARORA & ANR Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

21.04.2017

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1. This petition has been filed impugning the order dated 17th March, 2017 whereby the prayer of the petitioner/plaintiff for re-calling her as witness to prove the site plan of the suit property was dismissed by the learned Trial Court.

2. Learned counsel for the petitioner submits that the original site plan was duly shown to the learned Trial Court when it was presided over by Mr.Ajay Goel, ADJ in the year 2014.

3. Learned Trial Court had dismissed this application under Order XVIII Rule 17 read with Section 151 CPC which was filed at the stage of final arguments observing that the site plan on record is only a photocopy without showing any portion in red colour though described in two portions, one in red and other as common, purportedly in different colour. The said photocopy was neither bearing the signature of the plaintiff nor of any draughtsman. While observing that additional evidence cannot be allowed to fill-up the lacuna, if any, the application was dismissed.

4. Learned counsel for the petitioner has repeatedly pointed out that the original site plan was duly shown to the learned Trial Judge, Mr. Ajay Goel, ADJ and it can be established from the record of the learned Trial Court.
5. If it is so, then this contention should have been raised before the learned Trial Court establishing the same from the record.
6. In view of the above, learned counsel for the petitioner seeks leave to withdraw the instant petition with liberty to approach the learned Trial Court to seek the relief.
7. The petition is dismissed as withdrawn granting the liberty as prayed for.

PRATIBHA RANI, J.

APRIL 21, 2017

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