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

+ C.R.P. 153/2016

PINKI @ CHARU BHARDWAJ

..... Petitioner

Through Mr. Dayanand Sharma, Adv.

versus

RAJENDER KUMAR (DECEASED) THR LRS Respondent

Through Mr. Ram Jiwan, Advocate for LR's of
respondent

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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19.01.2017

1. By the present petition under section 115 CPC the petitioner seeks to impugn the order dated 8.6.2016 by which an application filed under section 151 CPC read with order 8 Rule 1A CPC to place on record copy of the Agreement to Sell dated 27.12.1987 executed between the parties was dismissed. The respondent/plaintiff has filed a suit seeking a decree of permanent injunction and possession in respect of flat No.A-03, Block N-19, DDA Janta Flats, Dilshad Garden, Delhi. As per the plaint the respondent claims to have been allotted the flat from DDA. Conveyance Deed was also executed in favour of the respondent on 5.1.2007. The petitioner is said to have been residing in the premises and was not paying any rent being the sister in law of the respondent. She has been staying there since August 1988.
2. After evidence of the parties was complete the petitioner moved the present application to place on record the said document. The trial court noted that the said Agreement to Sell is not even pleaded in the written

statement. It also noted that in the cross-examination the petitioner was questioned about any documents regarding sale purchase of the property. Hence the court concluded that it appears that the petitioner has woken up and now sought to produce the present document. It was also noted that no cogent explanation has been given as to why the document was not filed earlier. Holding that the petitioner did not act in a diligent manner, the application was dismissed.

3. The evidence of the parties is over. In the written statement filed by the petitioner it is stated that in 1987 the respondent offered to sell the suit property to the petitioner due to financial problems for a sum of Rs.15,000/- i.e. the amount actually deposited with DDA. As per the written statement it was also allegedly agreed that the parties will execute the documents of sale after full and final payment of DDA by the petitioner. It was also agreed that the conveyance deed would be executed in favour of the respondent and thereafter it would be conveyed in favour of the petitioner. This arrangement it was stated was made in good faith as there were cordial relations between the parties. The petitioner claims to have paid Rs.15,000/- in cash to the respondent in blind faith and belief upon the respondent.

4. Hence, what has been alleged in the written statement is an oral agreement to sell. Now, after evidence is over, the petitioner wants to place on record a document purported to be an agreement to sell which is 30 years old. It is clear that the petitioner is trying to change the entire nature of this suit by introducing this agreement, at this late stage. Even otherwise, it is not clear as to how this agreement to sell in any manner helps the petitioner in her defence to the suit.

5. Learned counsel appearing for the respondent has also pointed out

that earlier the petitioner had filed the suit for mandatory and permanent injunction. Even in the plaint of the said suit the same averments are stated which have been stated in the present written statement by the petitioner. Even in that suit no reference was made to any written agreement to sell.

6. It is clear that there are no reasons to interfere in the order passed by the trial court. The order does not suffer from any error. The petition and all pending applications stand dismissed.

JAYANT NATH, J

JANUARY 19, 2017

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