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

+ C.R.P. 7/2017

SAHEDA BEGUM

..... Petitioner

Through Mr.Subodh K.Pathak, Mr.Sanjay
Kumar and Mr.Rohit Agarwal, Advocates

versus

FAJRI BEGUM & ANR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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13.01.2017

1. By the present petition filed under section 115 of the CPC the petitioner seeks to impugn the order dated 27.8.2016 by which an application filed under Order 18 Rule 17 CPC to adduce additional evidence by summoning of witnesses as mentioned in the application was dismissed. The petitioner has filed a petition under section 372 of the Indian Succession Act for grant of succession certificate in respect of pension benefits and family pension from the employer of her deceased husband late Mohd.Yakub, who died on 18.10.2012. Objections have been filed by one Fajri Begum who claims that she was wife of Mohd.Yakub and had not been divorced by Mohd.Yakub. After evidence of the parties was over the petitioner has moved the application under Order 18 Rule 17 CPC for permission to lead additional evidence. A perusal of the application shows

that she seeks to lead evidence of four additional witnesses including Patwari, Tehsildar Nuh, District Mewat, Haryana. The trial court by the impugned order dismissed the application holding that there are no grounds for delay in production of the evidence.

2. Learned counsel appearing for the petitioner submits that he confines his relief only to place on record the Khata Khatoni and summoning of the concerned revenue official from Tehsil Nuh, District Mewat, Haryana.

3. A perusal of the application filed by the petitioner under Order 18 Rule 17 CPC shows that there is no explanation given in the application as to why there was a delay in producing the evidence. This lacunae is sought to be covered up in the grounds of appeal where it is stated that when Fajri Begum and her son led their evidence on 5.5.2016 and 6.6.2016, in their cross-examination on 5.5.2016 Ms.Fajri Begum denied the suggestion that immoveable property left by deceased Shri Mohd.Yakub were distributed among her children and children of the petitioner from the deceased. Hence, the necessity arose to obtain the Khata Khatoni of the land of the deceased husband. Hence, it is stated that the petitioner has now obtained copy of the Khata Khatoni which shows the name of the four sons of late Shri Mohd.Yakub from the petitioner and from Fajri Begum mentioned.

4. Keeping in view the belated explanation given and the limited request being made by learned counsel for the petitioner, in the interest of justice, last opportunity is granted to place the Khata Khatoni on record subject to payment of costs of Rs.5,000/-. No adjournment shall be sought by the petitioner on the date fixed by the trial court for the recording of evidence of the revenue official Tehsil Nuh. As limited relief has been given to produce an official document, it is not that necessary to serve the respondent.

5. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.
6. A copy of this order be given dasti.

JAYANT NATH, J

JANUARY 13, 2017

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