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

+ **CM(M) 762/2017**

PUSHPA DEVI

..... Petitioner

Through: Mr. I.S. Alag, Sr. Adv. with Mr. J.S.
Lamba & Mr. Prateek Prabhakar,
Advs.

Versus

LATE SH MAHARAJ KUMAR MEHTA

THR HIS LEGAL HEIRS & ANR

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **24.07.2017**

CM No.25843/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 762/2017 & CM No.25842/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order (dated 11th May, 2017 of the Court of Additional District Judge (ADJ)-03, North-West District, Rohini Courts, Delhi in Civil Suit No.211/2016) refusing to examine PWs Rajesh Nanda and Pawan Kumar Gola present in the Court.
4. The learned ADJ has refused to examine the said witnesses owing to the order dated 21st April, 2017 in CM(M) No.442/2017 earlier preferred by the petitioner / plaintiff.
5. The petitioner / plaintiff along with this petition has not filed the copy of the order impugned in CM(M) No.442/2017 earlier preferred.
6. The senior counsel for the petitioner / plaintiff on asking has handed

over in the Court a copy of the order dated 16th February, 2017 of the Additional District Judge impugned therein.

7. A perusal of the said order dated 16th February, 2017 shows that thereby the evidence of the petitioner / plaintiff was closed.

8. This Court in challenge thereto by way of CM(M) No.442/2017 permitted the petitioner / plaintiff to examine only PW4 on the conditions mentioned therein.

9. The petitioner / plaintiff however, besides examining PW4, wanted to examine other two witnesses also and which has been correctly refused by the learned ADJ.

10. The senior counsel for the petitioner / plaintiff has sought to argue that this Court on 21st April, 2017 was concerned only with PW4 and not with other witnesses.

11. The said contention is clearly contrary to the unambiguous and clear language of the order dated 21st April, 2017 whereby the order dated 16th February, 2017 of closure of the evidence of the petitioner / plaintiff was modified only to the extent of allowing the petitioner / plaintiff to examine PW4. In fact, the attempt of the petitioner / plaintiff to examine other witnesses in the garb of the order dated 21st April, 2017 is not appreciable.

12. The senior counsel for the petitioner / plaintiff states that the petitioner / plaintiff will seek review of the order dated 21st April, 2017.

13. The petitioner / plaintiff, in accordance with law, will have liberty to do so.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 24, 2017/‘gsr’..

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