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

+ **CM(M) 758/2017**

ASHOK NIJHARA

..... Petitioner

Through: Mr. Abinash K. Mishra, Adv.

Versus

MAHINDER PAL SINGH & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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25.07.2017

CM No.25743/2017 (for exemption)

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

CM(M) 758/2017 & CM No.25742/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order (dated 11th January, 2017 in Suit No.206594/2016 (New) / Suit No.105/2016 (Old) of the Court of Additional District Judge (ADJ)-02, South District, Saket Courts, New Delhi filed by the respondent no.1 / plaintiff against the petitioner and the respondents no.2 to 3 / defendants) of dismissal of applications filed by the petitioner / defendant as well as the respondent no.2 / defendant under Order VII Rule 14 of the CPC for de-exhibiting a 'CD' and transcript of the contents thereof tendered by the respondent no.1 / plaintiff along with his affidavit by way of examination-in-chief as Ex.PW1/4 and Ex.PW1/5.

4. The learned ADJ in the impugned order has reasoned that though the CD and its transcript were filed by the respondent no.1 / plaintiff after the framing of the issues but along with the replication expressly permitted to be filed as far back as in the year 2011 and the petitioner and the respondents no.2 and 3 / defendants at the time when the said CD and transcript were tendered into evidence did not raise any objection.

5. No fault can be found with the said reasoning, to require interference under Article 227 of the Constitution of India.

6. The counsel for the petitioner / defendant has contended that what has been filed in the Court as 'CD' in fact has been damaged.

7. The petitioner / defendant is still in the process of cross-examining the respondent no.1 / plaintiff and it is up to the petitioner / defendant to in cross-examination demonstrate that the CD and its transcript are not proved in accordance with law and are not admissible in evidence.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 25, 2017

'gsr'..