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

+ CM(M) 13/2017 & CM Nos.248/2017 & 249/2017

SYED DAUD MEER (NOW DECEASED) THR HIS LEGAL  
HEIRS

..... Petitioner

Through Mr.Ashok Gurnani, Advocate

versus

NAIMA BEGUM

..... Respondent

Through

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

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**04.01.2017**

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to challenge the order dated 10.11.2016 by which an application filed under Order 18 Rule 17 CPC and under section 145 of the Indian Evidence Act, 1872 for re-examining/correcting/rectifying the evidence of DW-1 was dismissed. Essentially the grievance of the petitioner is that in the course of examination the said witness DW-1 could not properly comprehend the question and answered wrongly as follows:-

(i) Regarding his being a party in the Execution proceedings filed by Naeema Begum vs. Ghulam Qadar Wani.

(ii) That father of the plaintiff was co-owner of the suit property whereas according to the pleadings he was not the co-owner.

2. Learned counsel submits that these admissions would create unnecessary problems for the petitioner.

3. In my opinion, these are no grounds for re-examination of DW-1. In case any alleged admission has been made by the witnesses, the petitioner

would be in a position to explain the said admission as per law. It is settled legal position that an admission can also be explained. The Supreme Court in ***Kapil Corepacks P.Ltd. vs. Harbans Lal, (2010) 8 SCC 452*** held that an admission must be conscious and deliberate act. An admission can be explained. Hence, a stray observation contrary to the stand taken in the pleadings etc. can be explained.

4. In view of the above, present petition stands dismissed.

**JAYANT NATH, J**

**JANUARY 04, 2017**

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