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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1192/2017
SHISHU RAVINDER @ PAPPU Petitioner

Through: Mr. Narender Malawaliya, Adv.

Versus

INDERJEET SINGH Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **30.10.2017**

CM No.38605/2017 (for exemption)

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

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3. This petition under Article 227 of the Constitution of India impugns the order [dated 19th August, 2017 in M.No.6139/2016 of the Court of Civil Judge-02, South District, Saket Courts, New Delhi] allowing the application of the respondent / plaintiff under Order VII Rule 14(3) of the Code of Civil Procedure, 1908 (CPC) for filing additional documents at the stage of evidence.

4. The contention of the counsel for the petitioner / defendant before the Civil Judge as well as before this Court is that since the suit itself has been dismissed and first appeal preferred against the said judgment has also been dismissed, the learned Civil Judge erred in allowing the application.

5. The aforesaid argument is on a misconception as to the nature of proceedings pending before the Civil Judge from which this petition arises.

6. The suit as well as the application filed by the respondent / plaintiff under Order XXXIX Rule 2A of the CPC were dismissed. The appeal against the judgment of dismissal of the suit has also been dismissed. However the appeal being RCA No.16/2014 (ID No.02406C0042742014) of the Court of District Judge, South District, Saket Courts, New Delhi against the order of dismissal of the application under Order XXXIX Rule 2A has been allowed and the matter remanded to the Civil Judge for decision afresh in accordance with the directions contained in the said order.

7. Thus, the argument of the suit having been dismissed is misconceived.

8. The counsel for the petitioner / defendant has also sought to urge that in view of the suit having been dismissed, the application under Order XXXIX Rule 2A is not maintainable.

9. These arguments are to be taken at the stage of consideration of the said application; this petition is only concerned with the order allowing the application under Order VII Rule 14(3) of the CPC.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 30, 2017

‘gsr’..