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

+ CM(M) 49/2017 & CM 1659/2017

BABA RAHIM ALI SHAH Petitioner
Through: Mr. V.K. Mishra, Advocate.

versus

DARGAH GOHAR ALI SHAH AND MASQUE WELFARE
SOCIETY & ORS Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **18.01.2018**

The petitioner is third defendant in the civil suit (Suit No. 93218/16 – old No. 1020/14) instituted by the first respondent (the plaintiff) impleading the second and third respondents herein as defendants No. 1 and 2 respectively, the prayer being for the relief of permanent injunction in respect of the subject property in which the petitioner also claims interest. Concededly, the pleadings having been completed, the case went to trial upon issues being settled by order dated 28.09.2015 of the trial court. The plaintiff of the case led evidence which stood concluded on 04.02.2016. Thereafter, the defendants including the petitioner herein were called upon to lead evidence. It is at that stage that the petitioner moved an application dated 27.02.2016 seeking to place on record certain documents

referring in this context to the provision of Order VII Rule 14 (3) of Code of Civil Procedure, 1908. The said application was considered by the Civil Judge but rejected by order dated 08.11.2016 which decision is assailed through the petition at hand.

The stage for filing of documents by the defendant is admittedly long over. They were to be submitted along with, if required, the list of reliance in respect of such documents as were not within the custody or control of the party in question, with the pleadings. The application on which the impugned order was passed vaguely stated that these documents form part of the record of the old case which was not in power or possession of the petitioner at the time of filing of the written statement and that some of these documents had been misplaced 'somewhere'. There is no explanation worth the name as to how or from whose possession and control these documents have now surfaced. Without such explanation being even offered in the application, the disinclination of the trial Judge to allow such material to come on board, cannot be faulted. The plaintiff would be seriously prejudiced if such documents are allowed to be taken on record at this late stage.

The petition and the pending application are dismissed.

R.K.GAUBA, J

JANUARY 18, 2018

srb