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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 10th April, 2018

+ CM (M) 170/2016

VIJAY RANI

..... Petitioner

Through: Mr. Sunil Tiwari, Adv.

versus

MADAN LAL & ANR

..... Respondents

Through: Mr. Rajiv Bajaj, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The proceedings in the suit (suit no. 247/2010) of the petitioner instituted on 11.01.2010 for reliefs of declaration, partition, possession, rendition of accounts, permanent injunction, primarily concerning two immovable properties, they having been described as property bearing no. 16/975, Bapa Nagar, Pyare Lal Road, Old Chungi, Bodla Wala ki Basti, New Delhi – 110005 and shop bearing no. 14-A/B, Sangita Press, Pyare Lal Road, Dev Nagar, New Delhi - 110005, stood concluded on 10.12.2013 on the basis of statements, *inter alia*, of the petitioner (plaintiff of the case) and of the first respondent (first defendant of the case), recorded in the context of an application moved under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 which was submitted on 10.12.2013. It appears the

settlement terms were to the effect that plaintiff was to receive Rs. 4 lakhs whereupon the suit was to be withdrawn and dismissed accordingly, such amount representing closure of her claim to right, title and interest in the said properties. The application was moved through Mr. V.K. Bajaj, Advocate who represented the defendants there, it being supported, *inter alia*, by the affidavit of the petitioner attested before Oath Commissioner on 10.12.2013, she having been identified in such context by Mr. V.K. Bajaj, Advocate, counsel for the opposite party, there being nothing in the proceedings recorded or the documents submitted indicating presence of her counsel at the crucial stage. She moved an application later under Section 151 CPC submitting grievance that the settlement terms were to the effect that she was to receive Rs. 8 lakhs and that her thumb impression/signature had been obtained, she having been made to believe that what had been settled had been properly recorded, the opposite party having thereafter gone back on the settlement as understood by her.

2. The trial court dismissed the application, as aforesaid, by order dated 18.12.2014, which is assailed by the petition at hand.

3. After some hearing, the counsel for the respondents fairly conceded that the application could not have been short-shrived, without inquiry, in the manner done. He, however, insisted that the petitioner must first deposit the amount of Rs. 4 lakhs which she had received in terms of the above said settlement, as per her willingness so to do indicated in the application under Section 151 CPC and as further affirmed at the hearing before this Court. The counsel for the

petitioner agrees to such deposit being a pre-condition to further inquiry.

4. The petitioner is, thus, directed to deposit an amount of Rs. 4 lakhs in the trial court within two months hereof, as is sought. Upon such deposit being made, the amount of money shall be put in fixed deposit receipt initially for a period of six months with provision for auto renewal.

5. Subject to deposit of the aforesaid amount of Rs. 4 lakhs, by the petitioner, the trial court is directed to hold a proper inquiry into the allegations made in the application under Section 151 CPC which was the subject matter of the impugned order dated 18.12.2014. Needless to add, the respondents will be entitled to file a reply to the said application, unless already so done. The trial court will give opportunity to both sides to adduce evidence as they wish to bring before the Court in the context of this application.

6. The application will be decided on the basis of such evidence in accordance with law and for further directions as would be found just and proper in light of the conclusions reached.

7. The trial court will avail of the deposit for appropriate relief to the concerned party at the conclusion of the inquiry.

8. The parties are directed to appear before the trial court on 9th August, 2018.

9. The petition is disposed of in above terms.

10. *Dasti* to both sides.

R.K.GAUBA, J.

APRIL10, 2018

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