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IN THE HIGH COURT OF DELHI AT NEW DELHI

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FAO(OS) 90/2018 & CM APPL. 23527/2018 & 26870-26871/2018

RAVI SINGHAL

..... Appellant

Through: Mr. Abhimanyu Bhandari with
Mr. Tanmay Mehta, Ms. Rinkel Singh &
Mr. Krishan Tewary, Advs.

versus

MANALI SINGHAL

..... Respondent

Through: Mr. Prosenjeet Banerjee with
Ms. Meera Menon, Ms. Vinita Sasidharan, Advs.
along with respondent in person.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE P.S. TEJI

ORDER

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10.07.2018

This appeal is directed against the two orders of the learned Single Judge dated 22.01.2018 and 26.04.2018 whereby the applications for amendment of the issues and a request for placing on record an additional document were rejected. These two applications were preferred by the appellant, who is arrayed as the defendant in a suit filed by the respondent for specific performance of a Memorandum of Understanding dated 04.11.1994. The relevant issues, concededly filed during the course of the proceedings, are numbers 1 and 9 – the latter based upon the appellant's plea that the

said document was unenforceable on account of its being procured *inter alia* by undue influence and coercion. The appellant had sought to bring on record an additional document to support its plea which was accepted by the Joint Registrar. The plaintiff filed a Chamber appeal, which led to the filing of an application for amendment of the issues. In the later application, the appellant sought to amplify the Issue No.9 into six separate issues (Additional Issues 1A to 1F) by separate reasons were rejected by the learned Single Judge.

This Court has considered the submissions of the parties.

The apprehension of the appellant is that the observations made in the course of the two impugned orders with respect to the availability or otherwise of certain documents in the absence of a positive relief claimed, would preclude the right to agitate certain questions, in our opinion is not warranted. The trial has just commenced.

Given these objective facts, the learned Single Judge's opinion that the additional document ought not to be brought on record cannot be faulted. At the same time, the Court clarifies that the observations made in both the impugned orders to the extent that they can be considered prejudicial shall not be deemed conclusive and all rights and contentions of the parties including such defences as are available to the appellant in the event he is able to establish the facts alleged, are available in law.

The appeal is disposed of in the light of the above terms.

Parties are directed to appear before the concerned Local Commissioner on 25.07.2018 at 2:30 p.m. for directions and further appropriate proceedings. The Local Commissioner shall endeavour to complete the proceedings and recording of evidence within four months from today.

S. RAVINDRA BHAT, J

P.S. TEJI, J

JULY 10, 2018
kks