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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1253/2018 & CM.No.42860/18**

RAHUL WADHWANI & ANR Petitioners

Through: Counsel for petitioner (appearance
not given.)

versus

RAJESH ANAND Respondent

Through: Mr. S.K. Sharma & Mr. Yugant
Kumar, Advocates.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
19.12.2018

Vide the present petition, the petitioner has assailed the impugned order dated 23.05.2018 of the learned ADJ-07, South East in CS No.8259/16 whereby the prayer made by the petitioner herein i.e. the defendant to the CS No.8259/16 under Section 151 of the CPC seeking permission to place sur-rejoinder to the replication of the plaintiff had been disallowed.

A perusal of the application that was filed before the learned Trial Court indicates that the prayer made in the said application was not only to file the sur-rejoinder but also to file additional documents in rebuttal of the replication and additional documents filed by the plaintiff. The prayer made vide the present petition, also apart from seeking the setting aside of the impugned order which declined

permission to file the sur-rejoinder seeks the filing of the sur-rejoinder as well as the submission of the additional documents to deal with documents filed along with the replication by the plaintiff.

On behalf of the respondent it has been submitted that in order to avoid protracted delay in the adjudication of the suit filed by the plaintiff i.e. the respondent to the present petition, the respondent has no opposition to the submission of the sur-rejoinder by the petitioner herein to the replication of the plaintiff i.e. the respondent to the CS No.8259/16 and also does not have any opposition to the submission of the additional documents to be filed by the petitioner herein in response to the additional documents filed by the respondent herein as plaintiff to the suit. It has however been submitted on behalf of the respondent that four witnesses of the respondent have already been examined and that the submission of the sur-rejoinder and the additional documents as prayed for on behalf of the petitioner if granted be not allowed to relegate the further re-calling of the witnesses already examined by the plaintiff.

On a consideration of submissions made, the impugned order dated 23.05.2018 in CS No.8259/16 to the extent, it does not permit the petitioner herein to file the sur-rejoinder and has not granted permission to file additional documents in response to the additional documents of the respondent is set aside and the petitioner is granted permission to file the sur-rejoinder and the additional documents to the response through the replication filed in addition to the replication of the plaintiff within a period of four weeks. It is expressly directed that the witnesses already examined by the

petitioner shall not be re-called in relation to the submission of the sur-rejoinder and additional documents now allowed to be filed by the petitioner. The petitioner may, however, prove the documents sought to be filed by the petitioner through the evidence i.e. to be led by the petitioner as the defendant.

The petition is disposed of.

Copy of this order be sent to the learned Trial Court.

ANU MALHOTRA, J

DECEMBER 19, 2018/NC