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

+ CM(M) 1469/2017

GURMEET KAUR

..... Petitioner

Through: Mr. Samrat Nigam & Mr. Abhimanyu
Walia, Advs.

versus

JATINDER PAL SINGH & ANR

..... Respondents

Through: Mr. Vivek Sharma & Mr. Nishant
Sharma, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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20.02.2018

The suit (presently registered as CS 118/16) pending on the file of Additional District & Sessions Judge-02 (Central), Delhi was instituted by the first respondent in 1996 seeking reliefs in the nature of partition and rendition of accounts. It appears the plaintiff relied on Will dated 30.06.1981 of late Sh. Arjan Singh, the predecessor-in-interest of the parties. It further appears that the petitioner, legal representative of Prithi Pal Singh (since deceased) who was impleaded as the first defendant in the suit had set up claim on the subject property under the Will dated 10.07.1984. As per the issues framed on 12.11.2010 the burden of proof in respect of Will dated 30.06.1981 is on the plaintiff while the burden in respect of Will dated 10.07.1984 is on the first said defendant, now represented by the petitioner.

The case had reached the stage of evidence of the defendant when application under Order 8 Rule 1A of Civil Procedure Code, 1908 (CPC)

was moved by the petitioner seeking to place on record a number of additional documents. The said prayer was rejected by the trial court by order dated 15.11.2017 which is impugned by the petition at hand, the prime reason for dismissal of the said prayer being that there was no mention of such documents in the pleadings nor any explanation offered as to why they had not been placed on record earlier or prior to the framing of the issues.

Though the petition was filed pressing the prayer in respect of all the documents mentioned in the afore-said application, at the hearing, the learned counsel for the petitioner presses the prayer only to the extent of seeking liberty to bring on record letters dated 06.08.1986, 26.08.1986 and 24.11.1986 purportedly addressed by the plaintiff to Deputy Commissioner of Police (licensing), Delhi making reference, *inter alia*, to Will dated 10.07.1984. Having regard to the nature of the said documents, it seems just and proper that the petitioner be allowed to bring them additionally on record. Ordered accordingly but subject to payment to Rs. 20,000/- as costs to the plaintiff to compensate for the delay that would ensue.

Needless to add, the plaintiff may exercise the liberty to lead additional evidence even at this stage with regard to the above documents or may reserve his right to lead evidence in rebuttal after the defendant has closed his evidence qua these documents.

Given the protracted proceedings that the case has seen, it is hoped the trial court will proceed with the matter expeditiously.

R.K.GAUBA, J

FEBRUARY 20, 2018/nk

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