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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M) 1476/2019 & CM APPL. 44972/2019

M/S SHREE BHAGWAN HOSIERY Petitioner

Through: Mr. Abhishek Kumar, Advocate (M-9811074290)

versus

TARUN WADHWA Respondent

Through: Ms. Sanjoli Mehrotra, Advocate (M-7042049770)

WITH

✓+ CM(M) 1477/2019 & CM APPL. 44974/2019

SURESH KUMAR DANG Petitioner

Through: Mr. Abhishek Kumar, Advocate
versus

TARUN WADHWA Respondent

Through: Ms. Sanjoli Mehrotra, Advocate

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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01.11.2019

1. The eviction petitions in these cases were filed by the Respondent/Landlord - Mr. Tarun Wadhwa (*hereinafter, 'Landlord'*) against the Petitioner/Tenant in CM (M) 1476/2019 and in CM (M) 1477/2019 (*hereinafter, collectively referred to as 'Tenants'*) in respect of one shop bearing No.1052, Ground Floor Ward No. XIV, Pan Mandi, Sadar Bazar, Delhi-110006. The Tenants had moved leave to defend applications which were allowed on 29th June, 2015. Thereafter, evidence was going on before

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By:AMULYA CM(M) 1476/2019 & CM(M) 1477/2019

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the ld. ARC. On 16th April, 2018, the evidence of the Landlord concluded. The Tenants were leading evidence. During the examination-in-chief, an objection was raised in respect of exhibition of a particular document. The said document was the certified copy of an alleged agreement to sell and an alleged *Bayana* receipt dated 5th February, 2019, the originals of which were part of the records of a separate suit titled ***Ramesh Kumar Dang v. Tarun Wadhwa***. The ld. counsel for the Landlord objected to the certified copy being exhibited whereupon the Tenants herein sought an adjournment to summon the said record.

2. An application for summoning of records was moved, however, no process fee was filed. Accordingly, the summoning was allowed, thereafter, on 6th October, 2018 subject to payment of Rs.7,000/- as costs. Process fee was thereafter filed, however, waiver of costs was sought which was rejected. An appeal in respect of the said waiver of costs was also dismissed by the Appellate Court. The present appeal impugns the said order refusing the waiver of costs.

3. After going through the order sheet, it is clear that the Tenants have been lax in the leading of the evidence. Thus, no case is made out for waiver of costs. However, it is directed that the certified copy, of the documents which the Tenants wish to exhibit, shall be exhibited subject to the condition that it is clearly confirmed that the originals are part of the trial court record in the other suit being titled ***Ramesh Kumar Dang v. Tarun Wadhwa***. The Trial Court has the option of either summoning the said record before it or inspection of the said suit record be given to the Landlord/counsel before further evidence of the Tenants is conducted before the Trial Court.

4. With these observations, both the petitions are disposed of. All

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pending applications also stand disposed of.

5. It is made clear that no unnecessary adjournments shall be taken by the Tenants who only wish to examine one witness. The cross-examination of the said witness shall now continue and the eviction petition shall be disposed of expeditiously.

6. The costs shall be deposited on or before the next date before the Trial Court when DW-1 is to be cross-examined.

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PRATHIBA M. SINGH, J.

✓ **NOVEMBER 01, 2019**
Rahul