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

Date of decision: 29th November, 2019

+ **CM(M) 1694/2019 & CM APPL. 51335/2019**

KRISHAN KUMAR

..... Petitioner

Through: Mr. Anil K. Aggarwal, Prof. Madan
Mohan & Ms. Nayantara Sharma,
Advocates (M-8373971576)

versus

SHANTI DEVI & ANR

..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(oral)

1. The present petition is filed challenging the impugned orders dated 15th January, 2019 and 12th March, 2019. The grievance of the Petitioner/Defendant is that the Plaintiffs/Respondents have been permitted to file the replication vide order dated 15th January, 2019 and the admission/denial has also been closed on the said date. However, without waiting for the replication to be filed, the Trial Court has gone ahead and settled the issues and also directed affidavits-in-evidence to be filed. Thereafter, on 12th March, 2019, the replication along with certain additional documents has been taken on record and evidence has also not been filed. This, according to the Id. counsel is a procedure unknown to law as the replication has raised several additional and new pleas which are initially not pleaded in the plaint. A large volume of documents has also been filed with

the replication. Since the issues are framed and the case has proceeded for filing of evidence, replication could not have been permitted to be taken on record.

2. The Court has perused the two impugned orders. There is no doubt that if permission is being granted to the Plaintiffs to file replication, the issues ought to be settled only after the replication and any documents which may be filed with the same are considered and taken on record. Framing of issues prior to perusing the replication could lead to an anomalous situation inasmuch as, if the replication which is a pleading, if permitted by the Court, has any new facts/legal issues, the same would not be part of the issues which are framed by the Court and hence the issues which are framed can remain pre-mature and half-baked.

3. In the present case, on 15th January, 2019, permission to file the replication was granted in the presence of all the counsels. Thereafter, issues have also been framed in the presence of all the counsels. Neither of the parties opposed the procedure adopted by the Trial Court. Thereafter, now the replication has also come on record with additional documents. Considering the overall facts situation, it is directed that:

- a) The replication and the documents shall be taken on record but the documents will have to be proved in accordance with law;
- b) An opportunity for conducting the admission/denial of the newly filed additional documents along with the replication shall be granted to the Defendant which shall be done by way of a statement of admission/denial as per the CPC;
- c) Before filing the statement of admission/denial, if the Defendant wishes to file any sur-replication/sur-rejoinder, permission to do so is

granted. The same shall be filed along with the statement of admission/denial within a period of four weeks from today.

4. In order to avoid unnecessary delays and complexities, by framing issues prior to filing of replication, it is directed that in future, Trial Courts shall ensure that if permission for replication is being granted, issues shall be framed only after the replication is filed.

5. The Trial Court shall now consider after perusing the replication and sur-rejoinder, if any additional issue or amendment of an issue is required. After the issues are finalised, the Plaintiff shall file the evidence as per the schedule set by the Trial Court.

6. With these observations, the petition and all pending applications are disposed of. Copy of this order be circulated to the District Judges by the worthy Registrar General.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 29, 2019

Rahul