

\$~10

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 127/2019 & CM APPL. 3685/2019**

BHARAT BHUSHAN Petitioner
Through: Mr. Pramod Kumar Ahuja, Advocate.

versus

SUSHILA DASS Respondent

Through:

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **31.01.2019**

CM APPL. 3686/2019 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CM(M) 127/2019

Vide the present petition, the petitioner assails the impugned order dated 10.12.2018 of the Court of the Civil Judge-01, South in Suit no.82522/16, vide which an application under Order XVIII Rule 17 of the CPC filed by the applicant therein i.e. the petitioner herein arrayed as the plaintiff of the said suit which was treated as being an application under Order XVI Rule 1(3) of the CPC was declined. The said application sought examination of a hand writing expert as an additional witness seeking to examine the documents i.e. the rent agreement dated 15.02.2013 and 15.12.2011, the other documents i.e.

GPA, Agreement to Sell, Will, Possession Letter, Affidavit, money receipt stated to have been executed by the defendant in favour of the plaintiff on 15.12.2011 submitting to the effect that the denial that had been made by the defendant during the course of admission denial of

documents on 31.07.2014 was malafide and intentional and that it would thus be appropriate to obtain an expert opinion with regard to the hand writing of the defendant on the said documents which application was declined.

Vide the impugned order observing to the effect that there was no reason whatsoever that had been mentioned by the plaintiff for omitting this witness from the list of witnesses that had been submitted and that it had been stated that it was only after the cross-examination of the defendant that plaintiff got to know that the defendant was denying her signatures on certain documents, and in order to disprove this claim, the additional witness was required to be examined, which explanation was held to be not satisfactory in view of the admission denial of documents having been conducted on 31.07.2014, whereby the defendant had categorically denied all these documents.

It has been observed vide the impugned order that in list of the witnesses that had been filed by the plaintiff after the denial by the defendant of these documents and no explanation was put forth for including this witness in the list of witnesses filed by the plaintiff at that time when it had been so filed and that the application did not

specify the details of the additional witness sought to be examined and that there was no sufficient cause set forth at all.

On behalf of the petitioner, learned counsel for the petitioner in reply to a specific court query now submits that though the admission/denial of the documents had been conducted on 31.07.2014, the name of the hand writing expert as a witness was not put forth in the list of witnesses of the plaintiff to be examined expecting good sense to prevail on the defendant who would admit the documents at the stage of cross-examination. Apparently, the said contention cannot be accepted. There is no infirmity in the impugned order dated 10.12.2018 of the learned Trial Court.

The petition and the accompanying application are declined.

ANU MALHOTRA, J

JANUARY 31, 2019/NC