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

+ **CM(M) 276/2019 & CM APPL. 7798-7799/2019**

KAPOORA Petitioner

Through Mr. G.P. Singh, Adv.

versus

NAWAL SINGH Respondent

Through None.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **26.02.2019**

CM APPL. 7798/2019

Exemption allowed subject to all just exceptions.

The application is disposed of.

CM(M) 276/2019 & CM 7799/2019

The petitioner assails the impugned order dated 5.1.2019 passed by learned SCJ Cum ARC, Karkardooma Courts in CS No.10882/16 whereby the application of the defendant i.e. the petitioner herein under order XIII Rule 3 CPC was declined.

On behalf of the defendant i.e. the petitioner herein it has been sought to be submitted that the suit had been filed by the plaintiff on the basis of documents i.e. agreement to sell, GPA, Will, affidavit, receipt, possession letter and rent agreement; on which the plaintiff fraudulently obtained the signatures of the defendant and his son as mortgaged with the plaintiff for the security of a loan and were to be returned after repayment of the loan amount. It was submitted that

the unregistered documents cannot be admitted as evidence, could not be used as evidence except in the case of contract of specific performance and that the defendant who is the petitioner herein is in continuous physical and legal possession of the suit property having purchased the same. Paragraph 5 of the impugned order is to the effect:

“5. The matter is at the stage of final arguments and instead of arguments, an application has been moved on behalf of defendant for deciding the admissibility or inadmissibility of the documents relied by the plaintiff in his evidence which is the subject of the final adjudication. The contentions regarding the admissibility or inadmissibility, relevance or irrelevance of the documents are to be decided at the time of final adjudication and no formal application is required to be moved in this regard. The application has been moved just to extract one date for the adjournment and is found to be frivolous.”

It has categorically been observed by the learned trial court that the contentions regarding the admissibility or inadmissibility, relevance or irrelevance of the documents are to be adjudicated at the time of final adjudication and no formal application in regard thereto is required to be moved.

There is no infirmity in the impugned order. The petition and the accompanying application are declined.

ANU MALHOTRA, J

FEBRUARY 26, 2019/aj