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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 708/2019

GURDEV

..... Petitioner

Through : Mr.Jay Savla, Senior Advocate with
Ms.Shilpi Choudhary, Mr.Rajpal,
Advocates.

versus

RAJ BALA

..... Respondent

Through : Mr.Aditya Jain, Advocate.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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07.05.2019

CAV No.486/2019

Counsel as above appears for the respondent/caveator.

The caveat is discharged.

CM APPL Nos.21707-08/2019

Exemption allowed, subject to all just exceptions.

The application(s) stand disposed of.

CM(M) 708/2019 & CM APPL No.21706/2019

An application dated 27.02.2019 was filed by the petitioner herein under Order XI Rule 12 & 14 CPC requiring the respondent to produce the documents which were in the power and possession of the respondent. The petitioner alleged the documents mentioned in sub para (a)-(m) of para 4 of his application dated 27.02.2019 are in the power and possession of the respondent and since are relevant for the

controversy involved ought to have been produced or the respondent should have made discovery on oath, qua such documents. A reply to the said application was filed wherein it was alleged by the respondent she was not in the power and possession of the partnership deed of M/s.Rati Ram Gupta and Company and the audited accounts of such firm and that the ITRs of the respondent herein were not relevant in the matter as also the documents qua her educational qualification. It was then submitted by the learned counsel for the petitioner that during her cross-examination, the respondent has alleged she is in possession of some documents which show the shares of partners and can produce those documents as and when required.

The application under Order *XI* Rule *12 & 14* CPC was though dismissed by the learned Trial Court but before the ARCT the matter was kept pending to complete the cross-examination by the respondent herein. During her cross-examination, the learned RCT in RCT No.47/2019 had dismissed the appeal on the grounds (a) the documents are were not relevant and (b) there is no question of law involved in appeal.

Thus considering the respondent had declined in her reply to the application under Order *XI* CPC that she is not in the possession of the partnership deed etc. and the assertion, if made, in her cross that she is in possession of some documents and can produce the same, the petitioner could have or may demand such documents in her cross-examination as it is still pending. It is needless to say in case the party who does not produce the documents if found relevant may face adverse inference.

There is no merit in this appeal and is thus dismissed. Pending application if any, also stands disposed of.

YOGESH KHANNA, J.

MAY 07, 2019

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