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

+ CM(M) 764/2019

JOGINDER SINGH MEHTA Petitioner
Through : Mr.Siddharth Tyagi, Advocate.

versus

HARDAYAL SINNGH MEHTA Respondent
Through : Mr.Sunil Aggarwal, Mr.Preetpal
Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **15.05.2019**

CAV 521/2019

Counsel as above appears for the respondent/caveator.

The caveat is discharged.

CM(M) 764/2019, CM APPL.No.23253-23254/2019

This petition challenges the impugned order dated 15.04.2019 whereby an agreement to sell dated 26.05.1973 was not taken on record by the concerned Court. It is submitted by the learned counsel for the petitioner, the petitioner was an owner of about 8 nos. of property but then a dispute arose amongst the family members and the matter was referred to arbitration and an award was passed in the year 1972 in respect of all such properties, including plots no.C-32 and C-33, Sawan Park, Delhi which were given to respondent and one brother namely Mr.Kirpal Singh respectively. After the award was passed in 1972, an application was filed to make the award the Rule

of Court. In the year 2007 the said award was made the Rule of Court. Later an execution application was filed to seek possession of the property C-32 (supra) by the respondent where the objection is filed by the present petitioner stating inter alia he had sold the said property in the year 1975 for legal necessity and he intends to prove such legal necessity in evidence. He further filed an application before the learned Executing Court to bring the agreement to sell dated 26.05.1973 on record qua plot no.C-32 (supra) allegedly executed by the respondent in favour of the minor son of this petitioner.

The respondent denied execution of any such agreement and alleged his signatures may have been taken on a blank paper and later being misused. Nevertheless property no. C-32 (supra) since stood in the name of the petitioner herein, the respondent could not have entered into any alleged agreement to sell dated 26.05.1973. Admittedly, the petitioner had finally sold such property to someone else, hence even if there was any alleged agreement to sell property no.C-32 it would hardly matter and rightly held so by the learned Trial Court, hence there is no ground to interfere in the reasoning given by the learned Trial Court which runs as under:

“ Moreover, since these documents were never produced or exhibited by the JD through the original trial/arbitration proceedings, and since the hon'ble high Court has already made the award rule of the court these documents cannot be allowed to be filed or exhibited at this belated stage as it will prejudice the rights of the DH at this stage. No explanation has been furnished by the JD as to how JD now came to be in possession of these documents and why these documents could not be produced earlier. Hence, the application is dismissed.”

In the circumstances the petition being devoid of merits is accordingly dismissed. Pending application also stands disposed of.

YOGESH KHANNA, J.

MAY 15, 2019/*DU*