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

+ **CM (M) 1420/2019 & CM APPL. 42929/2019**

KISHAN CHAND & ORS

..... Petitioners

Through: Mr. Dushyant Sisodiya, Advocate (M:
9810387906).

versus

SHANTI DEVI & ORS

..... Respondents

Through: Mr. Sanjeev Kumar, Advocate for R-
1. (M: 9810437609)

Mr. Anand, Advocate for R-3 to 41.
(M: 9958897511)

WITH

CM (M) 1685/2019

NAWAL SINGH (DECEASED) THR LRS & ORS Petitioners

Through: Mr. Dushyant Sisodiya, Advocate
versus

SHANTI DEVI & ORS

..... Respondents

Through: Mr. Anand, Advocate for R-3 to 41.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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20.12.2019

1. Ld. counsel for Respondent No.1 and Respondent Nos. 3 to 41 are present. Copies of the paper-book have been supplied to them.
2. The background is that a suit for declaration and injunction was filed in 1996, in respect of a 200 sq. yard plot in Humayunpur, New Delhi. In the said suit, two sale deeds which are relied upon by the Plaintiff are in Urdu language. Initially, the Plaintiffs had filed a translation of the sale deeds, after obtaining the same from one translator. However, since the said

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By:AMULYA CM (M) 1420/2019 & CM (M) 1685/2019

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translator was not available, a second translation got done and the said translator was produced before the Court. During cross-examination, it appears from the testimony of the translator that some confusion has arisen in respect of the *Khewat* number. Various other discrepancies were also pointed out during the cross-examination, which raised a doubt about the authenticity and credibility of the translation.

3. At this stage, the Plaintiffs moved an application under Order VII Rule 14 CPC, seeking to produce fresh translations, which was rejected by the Id. Trial Court. Thereafter, an application under Section 45 of the Indian Evidence Act, 1872, for production of the expert was sought, which was also rejected. The request for an official translator has also been rejected by the Id. Trial Court. Id. counsel for the Respondent No.1 and Respondent Nos. 3 to 41 submit that since the translation was produced by the Plaintiffs, if they are not able to prove the translation, then the same should work to their detriment.

4. On the other hand, Id. counsel for the Petitioners submits that effort had been made to get the translation of the sale deeds done and owing to the age of these documents, the same have been obtained from the Department of Archives. It is submitted that since the translator who was produced has raised doubts regarding the credibility of the translation, the documents ought to be officially translated, failing which, the correct facts would not be able to be brought before the Court.

5. After hearing the Id. counsel for the parties and after perusing the documents, there is no doubt that the documents are quite old and that they are in Urdu language. Without going into the question as to why the translator, who was produced by the Plaintiffs, did not stand by the

translation which was given by him, the Court ought to have the actual and authentic translation before it. Considering the above facts, it is deemed appropriate to appoint a Local Commissioner/Expert Translator for translating the two sale deeds relied upon by the Plaintiffs and any other documents in Urdu which either party wishes to rely upon.

6. Accordingly, *Mr. Mohd. Arshad, Sr. Judicial Translator, Delhi High Court (M: 991144507)* is appointed as the Local Commissioner/Expert Translator. Ld. counsel for the parties are permitted to supply clear and readable copies of the documents of which translation is required to be done to the translator. Ld. Counsel for the Respondents are also permitted to get documents translated from the translator, if they so wish.

7. The fee of the translator is fixed at Rs. 25,000/- lumpsum, to be paid by the Petitioner. The translations shall be carried out within four weeks of supply of the documents and shall be placed before the Id. Trial Court. If the Respondent requests for any translations the trial court will fix the fee of the Translator. The translations shall be accepted and shall be read in evidence as per the provisions of Order XXVI CPC. If the statement of the translator is required to be recorded, the translator shall appear before the Court and record his statement.

8. With these observations, the petition and all pending applications are disposed of.

Prathiba
PRATHIBA M. SINGH, J.

DECEMBER 20, 2019

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