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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 528/2018 & CM APPL. 18322/2018**

VIJAY SINGH

..... Petitioner

Through: Mr. Mukesh Verma & Ms. Meenu
Rani, Advocates.

versus

SWINDER SINGH & ANR

..... Respondents

Through: Mr. Rajan Sabharwal, Advocate for
R-1.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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14.02.2019

The respondent no.2 arrayed on record is apparently a proforma party.

The petitioner assails the impugned order dated 11.12.2017 of the Court of the learned ASCJ-cum-JSCC-cum-GJ (South), Saket Courts in CS No.83659/16, vide which an application under Section 151 of the CPC filed on behalf of the plaintiff seeking that the Ex.DW1/1 be sent to the FSL for verifying the correctness of the signatures at 18 points on the said document with the approved admitted signatures of the plaintiff was declined, it having been observed *inter alia* by the learned Trial Court to the effect that the replication in the instant case was admittedly not filed by the plaintiff

in terms of the Court order, it came to be rejected for having not filed the same and that there was no rebuttal to the amended written statement and the additional document Ex.DW1/1 that had been filed therewith by the defendant no.1 and that the plaintiff had thus failed to challenge the genuineness of the document at the stage of the pleadings and could not be now permitted to challenge the same at the stage of defence evidence.

It has also been observed vide the impugned dated 11.12.2017 that the plaintiff had also failed to adduce any evidence in support of the case that Ex.DW1/1 was a registered document with the presumption under Section 114, illustration (e) of the Indian Evidence Act, 1872. As regards the observations in the impugned order dated 11.12.2017 in relation to the costs not having been paid for further cross-examination of DW-1, costs of Rs.1,000/- are indicated to have been paid previously and the further costs of Rs.1,000/- that had been imposed on 09.08.2017 during the course of the proceedings before the learned Trial Court have been paid now during the course of the disposal of CM(M)522/2018 that was fixed between the parties for consideration today.

However, on behalf of the petitioner, reliance is placed on the testimony of DW-1 to submit that the DW-1 apparently is not even literate despite his contentions that he is a graduate and is unable to understand the letter V and states that the reverse of the letter V is letter V and that thus, the witness who does not even understand English and its contents and who states that he knows English, not

being a reliable witness coupled with the aspect also that Ex.DW1/1 does not bear the signatures of the plaintiff, coupled with the factum that the plaintiff i.e. the petitioner herein has of his own accord got the said document examined by the FSL Authorities, an opportunity be granted to the plaintiff i.e. the petitioner herein for sending of the document Ex.DW1/1 with purported signatures thereon of the plaintiff i.e. the petitioner herein for comparison with the admitted signatures of the petitioner.

A perusal of the proceedings before the learned Trial Court as has been reflected during the course of the proceedings of the connected petition i.e. CM(M)522/2018, makes it apparent that there had been deliberate dilatory tactics being deployed by the petitioner during the course of the proceedings. The veracity or otherwise of the testimonies of the witnesses and of documents that had been produced by either side and also the aspect of variance of averments in the testimonies of the witnesses of the defendant or of the plaintiff can all be gauged by the learned Trial Court at the stage of the adjudication of the final *lis*.

There is no merit in the present petition. The present petition and the accompanying application CM APPL. 18322/2018 are thus, declined.

ANU MALHOTRA, J

FEBRUARY 14, 2019/NC