

\$~52

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

+ **CM(M) 1200/2018**

RAJ KUMAR GUPTA

..... Petitioner

Through : Mr.R.L.Bhatia, Advocate.

versus

SAT PRAKASH RANA

..... Respondent

Through : NEMO.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **20.05.2019**

CM APPL.No.40947/2018

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 1200/2018 & CM APPL.No.40496/2018

This petition is against an order dated 02.07.2018 passed by the learned Trial Court which *inter alia* notes as under:-

"Ld. Counsel for defendant has adverted to para no. 7 of proposed additional written statement and submits that Hon'ble Lokayukta having taken cognizance of complaint had listed the matter on 29.03.2017 which came to the knowledge of defendant on 01.03.2017 i.e. after filing of written statement on 22.02.2017 and is therefore required to be pleaded by defendant by way of additional written statement.

Since defendant has already averred about complaint and FIR no.26/2004 PS Kapashera in his written statement and cognizance taken by Hon'ble Lokayukta upon complaint which was thereafter listed on 29.03.2017 is not essential for adjudicating plaintiff's suit for damages so there is no requirement of any additional written statement to be taken on record.

Application under Order VIII Rule 9 CPC for permission to file additional written statement is therefore dismissed."

The learned counsel for the petitioner says a Suit for damages for defamation has been filed by the respondent against petitioner. The disputes relates to a patch of 2305 square feet of land in Khasra No.273/2 at Village Shahbad Mohmmadpur, Delhi, which petitioner

alleges to have been purchased from Smt. Shyama Devi the mother of respondent vide a sale deed dated 22.12.1996 for a consideration of Rs.31.75 Lac. It is submitted the respondent is creating hindrance in peaceful enjoyment of the plot and in fact had grabbed it. Various police complaints were filed in the year 2004, 2014, 2015 and 2016 besides complaint before the constitutional authorities, including Lokayukta, who has since taken cognizance of the complaints filed by petitioner against the respondent and had issued notice to the respondent— which fact the petitioner intends to bring on record by way of an additional written statement under Order VIII Rule 9 CPC. This application has been rejected by the learned Trial Court on the ground that the facts alleged are not relevant in a suit for damages for defamation.

I concur with the reasoning given by the learned Trial Court as the damages sought are for defamation for which the cause of action arose prior to filing the suit for damages and what the petitioner intends to bring on record are the subsequent events which, even otherwise, are not relevant to decide the allegations of defamation, as existed on prior to the date of filing of the suit.

There is no infirmity in the impugned order passed by the learned Trial Court. The petition is accordingly dismissed. Pending application also stands disposed of. No order as to costs.

YOGESH KHANNA, J.

MAY 20, 2019/M