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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 89/2020 and CM APPLs. 3091-92/2020**

RADHA KHATTAR & ORS

..... Petitioners

Through: Mr. Amitabh Naryan and Mr.
Avdhesh Singhal, Advocates (M:
9818200333).

versus

PRASHANT KHATTAR

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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27.01.2020

1. Advance copy is stated to have been served, however, none appears for the Respondent.
2. The only grievance in this petition is in respect of the mode of proof of the relinquishment deeds dated 21st December, 2018. The Trial Court has rejected the objections of the Petitioners/Defendants (*hereinafter*, "*Defendants*").
3. Evidence by way of affidavit was filed on behalf of the Plaintiff/Respondent (*hereinafter*, "*Plaintiff*") by PW1. Considering the documents which the affidavit sought to exhibit by way of the evidence, the Defendants moved an application under Order XVIII Rule 4 CPC praying that no exhibit marks be put on the two relinquishment deeds dated 21st December, 2018. While recording the examination-in-chief, the following note was made by the Trial Court in respect of both the relinquishment deeds:

“I tender my evidence by way of affidavit Ex. PW1/A. It bears my signatures at points A & B. I rely upon the following documents:

- 1) Ex. PW1/1 is the copy of lease deed.*
- 2) Ex PW 1/ 2 is the copy of sales certificate.*
- 3) Ex PW 1/ 3 is the relinquish deed dt 21.12.2018 (objected to mode of proof and insufficiency of stamp duties and that it is actually a gift).*
- 4) Ex PW 1/ 4 is the relinquish deed dt 21.12.2018 (objected to mode of proof and insufficiency of stamp duties and that it is actually a gift)*
- 5) Ex PW 1/ 5 is De exhibited being photocopy is now MARK A.*
- 6) Ex PW 1/ 6 is De exhibited being photocopy is now MARK B.*
- 7) Ex PW 1/ 7 is De exhibited being photocopy is now MARK C.*
- 8) Ex PW 1/ 8 is De exhibited being photocopy is now MARK D.*
- 9) Ex PW 1/ 9 is De exhibited being photocopy is now MARK E.*

XXXX by Sh. Amitabh Narayan Ld counsel for defendants.

Deferred at the request of Ld counsel for defendants.”

4. However, thereafter, on the very same day, the Trial Court proceeded to decide the application and held that since the issue of insufficient stamping was decided in favour of the Plaintiff, the documents have been rightly exhibited and the application was dismissed. Ld. counsel for the Defendants submits that the mode of proof objection was not just related to insufficient stamping but to other grounds as well. Thus, as per the Defendants, the order of the Trial Court dismissing the application is erroneous.

5. This Court has perused the examination-in-chief, the application, as also the impugned order dated 26th November, 2019. The objection as to insufficient stamping has been considered by the Trial Court and the Court has held that the documents do not deserve to be impounded. However, in the examination-in-chief, insofar as the mode of proof is concerned, the objection of 'mode of proof' has been recorded by the Trial Court. When such objections are recorded, the same have to be decided at the time of final adjudication. Mere sufficiency of stamping does not mean that the document itself stands proved. Accordingly, it is clarified that the question as to whether the said documents i.e., the relinquishment deeds dated 21st December, 2018 – exhibited as PW 1/3 and PW 1/4, were proved in accordance with law shall be adjudicated at the final stage. The observations made in the impugned order shall not come in the way of deciding the said objection when raised at the stage of final arguments.

6. The petition is disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

JANUARY 27, 2020
MR