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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 115/2020 and CM APPL. 3853/2020, 3854/2020**

WAHABUDDIN

..... Petitioner

Through: Mr. Dilip Singh and Mr. Ajay Kumar,
Advocates (M: 9868471024 and
9810165247).

versus

KARIMUDDIN & ANR

..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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05.02.2020

1. The only grievance in this petition is that the Petitioner/Defendant No.1 (*hereinafter 'Defendant No.1'*) has not been permitted to produce or call an official witness from the Sub-Registrar's Office to produce a document which was relied upon in the reply to the legal notice as also in the written statement. The submission of Id. counsel for the Defendant No.1 is that the document could not be filed on record as the same was not available with the Defendant No.1 and accordingly an application was moved seeking permission to lead further evidence in respect of the cancellation of the Power of Attorney. The said application was rejected by the Trial Court on 7th January, 2020.

2. Issues were framed in the suit on 9th February, 2016. Plaintiffs' evidence was concluded on 2nd November, 2016. The Defendant No.1 closed the evidence in the affirmative on 4th July, 2017. Thereafter, the matter has been listed for final arguments and continues to remain pending. The Trial Court has thus observed that the entire intention appears to be only

to delay the trial and since the document was executed by Defendant No. 2, Defendant No. 1 would not be competent person to prove the execution of the document and hence no permission can be granted.

3. Ld. counsel relies upon the copy of the reply to the legal notice to argue that the details of the document are mentioned in the said reply and Defendant No.1 only intends to produce an official witness from the Sub-Registrar's Office to prove this document.

4. This Court of the opinion that since the evidence was concluded way back in 2016 and 2017 by the ld. counsel for the parties, no further oral evidence can be permitted. However, only because the document is claimed to be a registered document and is purportedly a cancellation of a Power of Attorney, which was relied upon in the reply to the legal notice as also in the written statement, if the Defendant No.1 is able to obtain a certified copy of the same from the Sub-Registrar's Office, Defendant No.1 is permitted to place the same on record before 20th February, 2020 in the Trial Court. The matter shall then proceed for final hearing. No further opportunity shall be granted to lead any evidence either oral or documentary in nature . The said permission is granted subject to costs of Rs. 5,000/- in addition to the Rs. 2,000/- costs already imposed by the Trial Court. Total costs shall be paid on or before the next date in the trial court

5. The petition with all pending applications is disposed of. *Dasti.*

PRATHIBA M. SINGH, J.

FEBRUARY 05, 2020
MR/A.S.