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

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Judgment delivered on: 11.03.2020.

+ CM(M) 352/2019

ZULFIKHAR KHAN

..... Petitioner

versus

HABIB KHAN @ ABDUL MUJEEB KHAN & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Pranav Jain, Advocate.

For the Respondent: Mr. M.A. Ansari, Advocate for respondent No.1.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM(M) 352/2019 & CM APPL.9321/2019 (stay)

1. Petitioner impugns order dated 10.07.2018, whereby, application of the petitioner under Section 45 of the Evidence Act has been dismissed.

2. Petitioner/defendant in the suit had filed the subject application *inter alia* seeking a direction to the respondent/plaintiff to produce the original GPA, Agreement to Sell and receipts all dated 06.12.1978.

3. It was contended that the documents were forged and fabricated and genuineness of the thumb impression of the testator Late Sh. Roopan on the said exhibits was sought to be proved.

4. Learned counsel for the petitioner submits that as per the application of the petitioner, either the documents should have been sent for forensic examination or the originals should have been produced before the Court.

5. Learned counsel appearing for the respondents submits that the original documents were duly produced before the Trial Court at the time of the recording of the evidence of the respondent and the copies of the said documents, after comparison, were exhibited and marked as Exhibit PW1/6 to PW1/8 and no objection was taken by the petitioner with regard to the proof of the said documents and exhibit marking of the copies and there is even no cross-examination or suggestion during cross examination that the originals have not been produced.

6. In view of the fact that the respondent had produced the original documents as sought for in the application filed by the petitioner, the reliefs prayed by the petitioner in the application stand satisfied.

7. Even otherwise, said documents have been exhibited without any objection as to their mode of proof and further, petitioner has not shown the relevance of sending these documents for examination by an expert examiner inasmuch as late Sh. Roopan was the predecessor

in interest of the father of the respondent, who claims to have purchased the property from Sh. Roopan. Petitioner, whose father was the brother of the father of the respondent, also does not claim that there were any other title documents in favour of the petitioner or his father other than the documents produced by the respondents. The contention is that the father of the respondent had taken away all the original title documents and he is not in possession of any title documents.

8. Even otherwise the alternative prayer in the application, filed by the petitioner, stands satisfied by production of original documents before the Trial Court. No further relief can be granted to the petitioner. Petitioner has also not been able to show any infirmity in the view taken by the Trial Court by the impugned order.

9. Further, it is informed by the learned counsel for the parties that evidence of the parties is already concluded and the matter is now at the stage of final arguments.

10. I find no merit in the petition. The petition is, accordingly, dismissed.

11. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 11, 2020
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