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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 196/2020

O E SEBASTIAN

..... Petitioner

Through: Petitioner in person.

versus

GENERAL MANAGER HDFC LTD. & ORS.

..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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18.02.2020

1. The present petition challenges the impugned order dated 9th November, 2017 by which the Petitioner's/Defendant No. 1's evidence has been closed and the matter has been put up for final arguments. The order reads as under: -

“Copy of order dated 10.7.2017 passed by the Hon'ble High Court in LPA 177/2017 entitled Eliamma Sebastian v. General Manager HDFC Limited and others, produced by counsel for the plaintiff. It is submitted by counsel for the plaintiff that one opportunity has been given to the defendant no. 1 to lead evidence in her defence.

A document purporting to be affidavit is filed by the defendant no. 1. Copy supplied to counsel for the plaintiff. Some documents also sought to be filed by the defendant. It is submitted by counsel for the plaintiff that he has no objection if the said documents are taken on record. Subject to the provisions of the Indian Evidence Act, 1872 and other laws the documents are taken on record. The affidavit of the defendant no. 1 is tendered in her examination in chief. DW1 Eliamma

Sebastian is cross examined by counsel for the plaintiff and discharged. No other DW is present. No other witness has been summoned by the process of the court. In these circumstances, DE is closed. Put up for final arguments on 08.12.2017.”

2. The present petition arises out of a suit for recovery of a sum of Rs. 4,38,766/- filed by HDFC Bank against Defendant No.1 and two other Defendants for recovery of a housing loan. As per the list of dates, the suit was instituted in 2004 and issues were framed way back on 20th February, 2006. Thereafter, the matter has been adjourned from time to time. On one occasion, this dispute was dealt with by a Division Bench of this Court in LPA 177/2017. On 10th July, 2017, the Division Bench passed the following order: -

“Mr. S.M. Chugh, Advocate puts in appearance on behalf of respondent No.1. He states that respondent No.1/ HDFC has filed a suit for recovery of the housing loan advanced to the appellant. The said suit is pending trial and is listed on 10.8.2017. He states that the respondent No.1/HDFC has no objection to the appellant being granted one more last and final opportunity to lead her evidence before the Trial Court.

The appellant who appears in person, states that she will lead her evidence on the next date, that is, 10.8.2017 and shall not seek any adjournment on that date.

This appeal is accordingly disposed of in terms of the aforesaid understanding and arrangement between the parties.”

3. Subsequent to the said order, on 9th November, 2017, Defendant No.1 has led evidence and has also been cross-examined. She tendered her affidavit and the documents filed by her were also taken on record. The

matter was then adjourned for final arguments to 8th December, 2017. The subsequent orders passed are not on record, however, Defendant No.1, who appears in person, submits that only photocopies of the documents have been taken on record and the originals, which she was carrying with herself, were not considered by the Court.

4. A perusal of the impugned order shows that the Id. counsel for the Plaintiff has made a clear submission that he has no objection to the documents being taken on record. Thus, the documents filed by Defendant No.1 shall be read in evidence. If the Court wishes to peruse the originals, the Court may direct Defendant No.1 to produce the same.

5. Defendant No.1, who is appearing in person, appears to be conversant with the litigation process, however, if she wishes, she is permitted to approach the Delhi State Legal Services Authority for appointment of a lawyer to argue the matter on her behalf.

6. With these observations, the petition and all pending applications are disposed of. Let a copy of this order be sent to ADJ-08, Tis Hazari Courts (Central), Delhi in Suit No.44/2014 titled *HDFC v. Ms. O.E. Sebastian & Ors.* Considering that the matter is more than 15 years old, the Trial Court shall now proceed with final arguments and dispose of the suit expeditiously.

PRATHIBA M. SINGH, J.

FEBRUARY 18, 2020
MR/T