

\$~40

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

+ **CM (M) 259/2020**

NARENDER KUMAR SHARMA & ORS. Petitioners
Through: Mr. Alok Kumar, Mr. Abhishek
Paruthi, Mr. Amit K. Singh and Mr.
Deepak Gupta, Advocates.
(M:9899429611)

versus

RAM PARSHAD & ORS. Respondents
Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **26.02.2020**

1. The present petition has been filed challenging the impugned order dated 13th February, 2020 by which the Petitioners'/Defendants' (*hereinafter, "Defendants"*) applications under Order VIII Rule 1A CPC and Section 151 CPC have been rejected by the Trial Court.
2. The suit was filed in 1983 by Mr. Ram Parshad and Mr. Dashrath Parshad against Ms. Parvati Devi and Mr. Babu Lal for declaration, possession and *mesne* profits. Trial is stated to have been concluded in the matter. A second suit was filed by Ms. Parvati Devi i.e., Defendant No. 1 in the first suit and the mother of the Petitioners herein, against the Plaintiffs in the first suit and others, seeking the relief of declaration, delivery of possession and permanent injunction in respect of the same plots. The Trial in both suits is stated to have been clubbed and Petitioner No.1 appeared as DW-1.

3. In the evidence of Petitioner No.1, an averment was made to the following effect:

“(a) Property No.79, Bhogal Road, Jangpura, New Delhi (79 hereafter). It is not disputed between the parties that this property was purchased on 10th August 1926 in the names of the three brothers Ram Chander, Bhondu Mal and Nathu Ram. We have filed a certified copy of the sale deed of this property. The original is not in our possession. The sale deed is registered and is thus public document. It is now more than eighty years old. The certified copy may kindly be exhibited as Ex.DW1/1.”

4. Prior to the conclusion of the cross-examination, the Defendants moved an application seeking to place on record the certified copy of the sale deed dated 12th August, 1926. The said application is stated to have been filed because it was realised during the cross-examination that only the first page of the document on record was certified. Though the document was exhibited as Ex. DW 1/1, in view of what transpired during the cross-examination, by way of abundant precaution and to ensure that the said document is not ignored at the time of final adjudication, the application was filed to place a second certified copy of the document on record, along with an English translation of the same. This application was, however, rejected after the closure of DW-1's cross-examination.

5. The impugned order proceeds on the presumption that no reason has been given for filing the certified copy at such a late stage when the same could have been filed along with the written statement much earlier. Considering that the document is of 1926 and the application was filed prior to the conclusion of DW-1's cross-examination, the application ought to have been decided prior to the conclusion of the cross-examination. The

dismissal of the application could prejudice the Defendants considerably.

6. Accordingly, it is directed that the certified copy of the sale deed, which is a registered document with the Sub-Registrar's office, be kept ready at the time of final arguments. The Trial Court shall peruse the same and decide the matter on merits and not merely on the ground that the certified copy of the sale deed was not placed on record. The said permission is granted subject to payment of Rs.15,000/- as costs to be paid to the Respondents herein within four weeks.

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

8. If the Respondents are aggrieved by this order, they are permitted to approach this Court.

9. Copy of the order be given *dasti* under signature of the Court Master.

PRATHIBA M. SINGH, J.

FEBRUARY 26, 2020/dk