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

+ **CM(M) 916/2018 & CM APPL. 32383/2018**

RATTAN LAL BANJARA

..... Petitioner

Through: Mr. Rakesh K. Sharma, Advocate.
(M:9968357810)

versus

BIDHAN DEVI & ORS

..... Respondents

Through: Mr. Inder Bhushan, Advocate for R-1.
(M:9811786252)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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15.01.2020

The Petitioner challenges the impugned order dated 16th July, 2018 by which the right of the Petitioner/Defendant No.1 (*hereinafter 'Defendant No.1'*) to file the written statement has been closed and further opportunity to file the same has been rejected by the Id. Trial Court. The suit for partition was filed amongst the heirs of late Sh. Bhodu Ram on 9th September, 2013. The Defendant No.1 was given opportunity on 23rd April, 2014 to file the written statement. However, the written statement was not filed and the submission of the Id. counsel for the Defendant No.1 is that the earlier counsel of Defendant No.1 did not file the written statement in time. The Plaintiff's evidence was closed in the suit on 26th April, 2017 thereafter, on 16th August, 2017 an application was moved by the Defendant No.1 to place the written statement on record. This application was rejected by the Id. Trial Court.

During the pendency of the suit Defendant No.4 passed away.

Defendant No.2 and 3 have already filed their written statement and they have also led their evidence in the matter. At such an advanced stage in the suit, Defendant No.1 cannot be allowed to reopen the entire case by filing the written statement. The impugned order is valid and justified. There is no reason to interfere in the same. However, it is made clear that if the Defendant No.1/Petitioner wishes to participate in the proceedings and cross-examine any of the witnesses whose evidence is yet to be recorded, he is permitted to do so. He is also permitted to address submissions before the Court at the time of final hearing.

With these observations the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

JANUARY 15, 2020

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