

\$~3

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

+ **CM(M) 1217/2018**

RAMBIR

..... Petitioner

Through: Mr. Jagdeep Singh Lamba and Ms.
Chhavi Narula, Advocates.
(M:9999874314)

versus

RAVI & ORS

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

%

19.02.2020

CM APPL. 41498/2018(Exem)

1. Allowed subject to all just exceptions. Application is disposed of.

CM(M) 1217/2018, CM APPL. 41497/2018 & CM APPL. 52262/2018

2. None appears for the Respondents. In fact, the record shows that the appearance on behalf of the Respondents has been sporadic in nature. On 12th December, 2018 while issuing notice, this Court had passed the following order:

“

By this petition the petitioner challenges the order dated 29.08.2018 whereby his opportunity to lead rebuttal evidence was closed and the matter was listed for final arguments.

It is submitted by the learned counsel for the petitioner that he had partly examined his witnesses PW1, PW2 and PW3 by 13.10.2014 but thereafter on 08.01.2015 an application was moved by defendant no.2 along with some forged documents claiming to have been signed by the petitioner no.1. The said

application was allowed and such documents were taken on record. Since the plaintiff evidence was still going on the plaintiff on 17.11.2016 had filed an affidavit of additional evidence but the same was not taken on record in view of the order dated 17.11.2016 wherein the learned Trial Court noted that filing of such additional affidavit would tantamount to re open his evidence.

The petitioner came before this Court in C.M.(M)150/2017 which was disposed of vide order dated 12.03.2018 wherein liberty was granted to the petitioner to move an application explaining the reasons why the petitioner needs to file an additional affidavit for evidence. Such application was moved but was dismissed vide order dated 03.07.2018 and interestingly in the stay order the learned Trial Court noted if some documents have been relied upon by the defendant in his evidence the plaintiff shall have every right to rebut such evidence after the closing of the defendant's evidence. However when such application was filed after the defendant's evidence, it was rejected on the ground the plaintiff ought to have acted prior to the defendant's evidence, hence the learned Trial Court had contradicted itself, hence this petition.

Issue notice to the respondents through all modes returnable on 18.03.2019, till then final judgment be not pronounced.

Order dasti."

As recorded above, the grievance of the Petitioner/Plaintiff (*hereinafter, "Plaintiff"*) is that the documents of the Defendant No. 2 were taken on record, however, no opportunity was given to the Plaintiff to lead evidence in respect of the said documents or rebut the same. Accordingly, one opportunity is sought to produce two witnesses only in respect of the said documents which were allowed to be taken on record on 8th December,

2015.

3. For the reasons as contained in the above order, as also after perusal of the impugned order, it is clear that the Plaintiff deserves to be given one opportunity to establish its stand that the documents which were permitted to be taken on record on 8th December, 2015 are forged and fabricated. Accordingly, two witnesses on behalf of the Plaintiff are permitted to adduce evidence and appear for Court for recordal of their statements as also their cross-examination on the date fixed by the Trial Court. No further opportunity shall be granted for either party to lead any evidence. The case shall then proceed for final arguments.

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

PRATHIBA M. SINGH, J.

FEBRUARY 19, 2020

dj