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

+ **CM(M) 2537/2024**

DELHI DEVELOPMENT AUTHORITY

..... Petitioner

Through: Mr. Ashim Vachher, Standing
Counsel with Mr. Kunal Lakra, Adv.
for DDA.

versus

BIRENDER PRASAD

..... Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

09.05.2024

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CM APPL. 27756/2024 (exemption)

1. Allowed, subject to all just exceptions. Application stands disposed of.

CM(M) 2537/2024 & CM APPL. 27755/2024—stay

2. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 19.01.2024 and 22.03.2024 passed by learned ADJ-04, North West District, Rohini District Courts, New Delhi (hereinafter referred to as 'Trial Court') in CS DJ No.78952/2016 titled as "*Birender Prasad vs. Lachman Singh*" whereby the learned Trial Court issued notice under Order XVI Rule 12 of Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") to the Vice Chairman of Delhi



Development Authority to ensure the production of the record and in case the record is not produced then the Vice Chairman to attend the court hearing in person through video conferencing explaining the reasons.

3. It is submitted on behalf of the petitioners that the respondent no. 1 filed a suit against suit bearing CS DJ No. 78952/2016 against respondent no. 2 which is pending disposal before the learned Trial Court. Admittedly, couple of possession letters was issued by the petitioner to respondent no. 2 for handing over the possession of Plot No. 10, Block-C, Pocket-4, Sector-28, Rohini, New Delhi (hereinafter referred to as “suit property”) measuring 66.00 sq.mtr.

4. Learned counsel for the petitioner submits that list of witnesses was filed and the petitioner was made one of the witnesses and the records pertaining to the suit property were sought to be summoned by respondent no. 1 by filing an application under Order XVI Rule 12 read with Section 151 CPC. The petitioner brought the fact that the original file pertaining to the suit property was not traceable and had been misplaced in the office of the petitioner to the notice of the learned Trial Court hearing which, the learned Trial Court directed the Vice Chairman, DDA to take appropriate action.

5. Learned counsel for the petitioner brings to the notice of this Court that the letters with respect to the original file pertaining to the suit property had been issued to various dealing assistants and a circular regarding loss of property file has been circulated amongst the departments of DDA to trace out the property file.

6. Moreso, loss of file has also been reported with the police, however, after taking the aforesaid steps, the department has reconstructed the



property file with the approval of the competent authority which has been placed before the learned Trial Court. It is submitted that the petitioner has done best which he could do in the present case to reconstruct the missing file and which has also been brought to the notice of the learned Trial Court. Despite the same, the learned Trial Court has ordered for appearance of the Vice Chairman of the petitioner through video conferencing.

7. Submissions heard. Impugned order passed by learned Trial Court and the record perused.

8. Having considered the above, as the reconstructed file has already been placed before the learned Trial Court, accordingly, the learned Trial Court to consider the reconstructed file as per law and in case there is any brevity, the same be brought to the notice of the petitioner.

9. However, the impugned order dated 22.03.2024 is set aside to the extent of seeking personal appearance of Vice Chairman of DDA through video conferencing.

10. With the above observations, petition stands disposed of.

11. The copy of order be given *dasti* under the signatures of Court Master as requested.

SHALINDER KAUR, J

MAY 9, 2024

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