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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 3011/2024 & CM APPL. 41643/2024**
SHRI SUDHIR ANAND ALIAS SONU AND ORS.

.....Petitioner

Through: Mr. Devender Kumar Jain, Mr.
Siddhant Jain and Ms. Anmol Anand
Jain, Advocates.

versus

SH. BRIJ LAL ANAND

.....Respondent

Through: Mr. Praveen Suri, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% **25.07.2024**
CM APPL. 41642/2024 (Exemption)

Exemption allowed, Subject to all just exceptions.

CAV 334/2024

Since learned counsel for the respondent/caveator has entered appearance, the caveat stands discharged.

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1. Petitioner is defendant before the learned Trial Court and is aggrieved by order dated 08.07.2024 whereby his DE has been closed and simultaneously one application, which was treated as an application moved under Order VIII Rule 1A CPC, has also been dismissed.
2. Mr. Suri, learned counsel for the respondent appears on advance notice and accepts notice.
3. During the course of the arguments, learned counsel for the petitioner has restricted his request and has contended that the petitioner (defendant

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Sudhir Anand @ Sonu) be granted one effective opportunity, subject to a reasonable cost to examine himself and his witnesses. It is also contended that no further opportunity would be sought.

4. Learned counsel for the petitioner also informs that Mr. Purshotam Lal Anand, alleged co-owner of the property in question has expired way back in the year 2017 and permission is sought to place on record the copy of death certificate thereof. He also was one of the cited witnesses of defendant.

5. Mr. Suri, learned counsel for the respondent states that he does not wish to prolong his matter any further and would have no objection if one last and final opportunity is granted to defendant to examine himself and the witnesses mentioned by him in the list of witnesses which was submitted before the learned Trial Court bearing date as 24.01.2013.

6. Admittedly, Mr. Purshotam Lal Anand, mentioned as serial No.2 of the list of witnesses has already expired and it is submitted by learned counsel for the petitioner that he would not examine anyone else in his place.

7. During the course of the arguments, both the sides have come to a consensus and with the consent of the both the sides, the following order is passed:-

- I. One effective opportunity is granted to the defendant to examine himself and also the witnesses as mentioned in the above list of witnesses.
- II. Except for the official witness, the affidavits of all such witnesses would be placed before the learned Trial Court on or before 31.07.2024, with advance copy to the opposite counsel.
- III. The learned Trial Court would fix dates for



recording of evidence by the same learned Local Commissioner.

IV. The learned Trial Court would also decide the fee to be paid in this regard to the learned Local Commissioner. Such fee would be borne by defendant.

8. Learned counsel for the petitioner states that he is also ready to compensate for the previous dates when the matter was fixed before the learned Local Commissioner and the evidence could not be recorded. Let a cost of Rs. Rs.25,000/- in this regard be paid to the plaintiff/learned counsel for the plaintiff on 31st July, 2024, which is the next date of hearing before the learned Trial Court.

9. It is clarified that the opportunity has been given in view of the concession given by the learned counsel for the respondent/plaintiff and it is expected that the defendant would render due cooperation and assistance not only to the Court but also to the learned Local Commissioner. It is also clarified that the petitioner would not be given any further indulgence either by this Court or for that matter by the learned Trial Court.

10. The petition stands disposed of in aforesaid terms.

MANOJ JAIN, J

JULY 25, 2024/ss