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

% ***Date of Decision: 30th July, 2025***

+ **CM(M) 1391/2025 & CM APPL. 45793-45794/2025**

MUKESH KUMAR BHARDWAJ

.....Petitioner

Through: Mr. A.K. Suri, Mr. Manoj Manderna,
Mr. Ankit Kansal and Ms. Affan,
Advocates along with petitioner in
person.

versus

GAURI SHANKAR & ANR.

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. A suit for declaration, permanent injunction and possession was filed by one Mr. Gauri Shankar (since deceased).
2. Such suit was registered as CS No.535403/2016.
3. It was directed against two defendants, including defendant No.2-Mr. Mukesh Kumar Bhardwaj (petitioner herein).
4. The abovesaid suit was dismissed by the learned Trial Court on 19.08.2019.
5. The plaintiff in that case was seeking possession as well as declaration and all the issues were answered against him.
6. Feeling aggrieved, the plaintiff filed an appeal which is pending adjudication before the learned First Appellate Court and such appeal has been registered as RCA No. 83/2019.



7. However, since defendant No.2/petitioner was also aggrieved by observation given by the learned Trial Court in the aforesaid judgment, he also filed a counter appeal, which has also been duly registered.

8. During the pendency of the abovesaid appeal, the cross-appellant (original defendant No.2) filed an application under Section 151 CPC praying therein that he may be permitted to place on record some documents *viz Agreement to Sell, Receipt and Affidavit* executed by the previous owner in his favour.

9. It was also mentioned in the aforesaid application that such documents had not been filed along with his application moved under Order XLI Rule 27 CPC as these were, earlier, misplaced.

10. Accordingly, request was made that these documents be also considered, while considering the application moved under Order XLI Rule 27 CPC.

11. When the reply to the abovesaid application was filed by the plaintiff, he came up with a revelation that similar endeavour was made by defendant No.2 when the suit was pending adjudication.

12. It was highlighted that defendant No.2 had filed an application dated 29.07.2019 under Order XVIII Rule 17 CPC seeking to place on record those very documents but the application was not pursued and was dismissed as withdrawn on 05.08.2019 and such fact was never revealed in the application and, therefore, such application was liable to be dismissed, with exemplary cost.

13. The learned Trial Court, after careful perusal of the matter, came to the conclusion that there was no reason to allow the abovesaid application as the applicant was having knowledge about the abovesaid documents during the



trial itself and these were in his possession in year 2019 but for the reason best known to him, these were not placed and when an application was moved, it was also withdrawn.

14. Thus, such application under Section 151 CPC has been dismissed by learned First Appellate Court on 16.05.2024.

15. Such order is under challenge herein.

16. The impugned order was, earlier, challenged by the petitioner by filing a revision petition, which was registered as C.R.P. No. 263/2024.

17. However, since revision against the said order was not maintainable, the revision petition was dismissed by learned Coordinate Bench of this Court on 23.05.2025, while granting liberty to petitioner to agitate all contentions before the appropriate forum, in accordance with law.

18. It is in the abovesaid backdrop that the present petition under Article 227 of Constitution of India has been filed.

19. Having gone through the impugned order and having heard learned counsel for the petitioner, this Court is unable to decipher any illegality or perversity in the impugned order.

20. Rather, the petitioner himself is to be blamed for his miseries as for the reason best known to him, he did not reveal a vital fact when he moved an application under Section 151 CPC before First Appellate Court. It should not have attempted to mislead the Court and should have rather apprised the Court that an exercise to that effect was undertaken by him when the trial was pending but such application was withdrawn.

21. During course of the arguments, learned counsel for petitioner submitted that such withdrawal was without instructions.

22. However, there is nothing which may indicate that the withdrawal was



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without instructions.

23. Moreover, the order whereby the abovesaid application was permitted to be withdrawn has not even been placed on record.

24. In the present petition also, in a very casual manner, it has been mentioned that the previous counsel had, merely, withdrawn the abovesaid application due to some oversight. There is nothing averred, suggesting negligence on the part of previous counsel.

25. Learned counsel for petitioner though submits that a complaint has already been filed against the previous counsel with Bar Council, fact remains that it is not always appropriate to castigate previous counsel and to blame him behind his back. The litigants are also required to be diligent and cannot take shelter behind the alleged careless and negligent attitude of the previous counsel.

26. Be that as it may, the suit was decided way back in the year 2019 and during the pendency of the suit, the petitioner herein had himself moved application seeking permission to place on record said documents which was withdrawn. Such fact should not have been suppressed. Moreover, the order whereby said application was dismissed as withdrawn has not even been filed.

27. Therefore, finding no error in the impugned order, the present petition is hereby dismissed.

28. All pending applications also stand disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 30, 2025/ss/js