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Pritam Kaur Vs. Ashok

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Court : Delhi

Decided On : Dec-01-2014

Judge : Valmiki J. Mehta

Appellant : Pritam Kaur

Respondent : Ashok

Advocate for Pet/Ap. : Mr. Mahesh Kumar Gautam

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + CM(M) No.1059/2014 & CM No.19676/2014 (stay) % 1st December , 2014 PRITAM KAUR Through: .....Petitioner Mr. Mahesh Kumar Gautam, Advocate. VERSUS ASHOK ..... Respondent Through: CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. By this petition under Article 227 of the Constitution of India the petitioner/defendant no.1 impugns the order of the trial court dated 16.10.2014 which has rejected the application filed by the petitioner/defendant no.1 to lead additional evidence.

2. The application for additional evidence was filed by the petitioner/defendant no.1 at the stage of pronouncement of judgment and the impugned order records that the case was fixed for petitioners/defendant no.1s evidence for the first time on 22.11.2012 and thereafter various opportunities were granted to the defendants

in the suit to lead evidence and ultimately counsel for the petitioner/defendant no.1 made a statement on 28.5.2013 that no further evidence was to be led by the petitioner/defendant no.1 and therefore the evidence of the petitioner/defendant no.1 was closed. The case was thereafter fixed for final arguments and thereafter for judgment/clarifications.

3. I may note that besides the aspect that the trial court has rightly exercised jurisdiction to dismiss the application for additional evidence at the stage of pronouncement of judgment inasmuch as petitioner/defendant no.1 took repeated opportunities and thereafter voluntarily closed her evidence and therefore clock cannot be allowed to set back merely because the petitioner/defendant no.1 in spite of being given various opportunities did not lead evidence. In any case, the subject application was filed for leading additional evidence was misconceived also because the case was fixed for pronouncement of judgment when the application was filed. It is only when a case is fixed for hearing that a party can take steps because some action has to be done by a party but if the case is only fixed for pronouncement of judgment ordinarily no application can be entertained inasmuch as, under Order IX of the Code of Civil Procedure, 1908 (CPC) it is only when the case is fixed for hearing that the court would entertain any application. Dismissed. DECEMBER01 2014 ib CMM10592014

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