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

+ **CM(M) 742/2016**

WASIM RAJA

..... Petitioner

Through: Mr. Prashant Kumar Mittal, Advocate.

versus

ISHRAT BEGAM

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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31.08.2016

C.M. No.27897/2016 (for exemption)

Allowed, subject to all just exceptions.

CM(M) 742/2016 and CM 27896/2016

1. By the present petition, the petitioner seeks to impugn the order dated 21.4.2016 by which order the right of the petitioner-defendant to re-examine and cross examine the witness DW1 and also for liberty to examine other witnesses, was declined.

2. Learned counsel submits that he only seeks liberty to examine three more witnesses whom he will bring on his own. He further submits that on 21.4.2016 as DW1 was being cross examined, the witnesses were not brought in Court as the petitioner was not sure as to whether cross examination of DW1 would be completed on that date or not.

3. The petitioner did not file his list of witnesses. However, learned counsel for the petitioner submits that the need for cross examining of the said witnesses has arisen on account of certain evidence which has come up during the course of evidence. He submits that the witnesses would be deposing on the issues other than the fact that the suit property was gifted to the defendant by the father. However, he submits that the other side is free to cross examine them on any issue. He relies on Order XVI Rule 1A CPC.

4. An advance copy of the petition has been served on the counsel for the respondent, however, none is present for respondent.

5. There is merit in the contention of the learned counsel for the petitioner. The petitioner has shown sufficient reasons to be permitted to examine these witnesses. In view of the above, subject to payment of cost of Rs.5000/- by the petitioner, the present petition is allowed and the order dated 21.4.2016 of the trial court is modified. The petitioner may, on his own, produce the three witnesses for examination/cross examination on the date so fixed by the trial court for the said purpose. The petitioner shall also not be entitled to any adjournment on that date.

6. The petition stands disposed of.

JAYANT NATH, J.

AUGUST 31, 2016
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