

\$~49

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

+ CM(M) 998/2016

PRADEEP JAIN Petitioner

Through Mr.Ratnesh Bansal, Advocate

versus

V D CHAUDHARY Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **30.09.2016**

1. By the present petition, the petitioner seeks to impugn the order dated 20.08.2016 by which the right of the petitioner to lead further evidence was closed.
2. The trial court observed that process issued to DW Sh.Avtar, Stamp Vender and Sh.Ramesh Vashisht, Notary Public was received back unserved with the report untraceable. It further noted that sufficient opportunities have been given to the petitioner/defendant to lead his evidence and there is no ground for grant of further opportunity to the defendant for leading his evidence.
3. The learned counsel for the petitioner taken me through the order-sheets including the orders dated 22.03.2016, 27.04.2016, 25.05.2016 and 18.07.2016 to submit that on each occasion the petitioner has been taking steps to summon the witness including the two witnesses in question, namely, stamp vender and notary public. He specifically relies upon the

noting made by Ahlmad for the hearing on 25.05.2016 where it was stated that stamp vender was served. He submits that despite service, the trial court did not take steps under Order 16 Rule 10 or 12 CPC and closed the evidence of the petitioner.

4. A perusal of the record shows that the petitioner has been taking steps to summon the witnesses. He cannot be penalised. It would be in the interest of justice that one final opportunity is granted to the petitioner to summon the said witness or any other witness who has earlier not been summoned.

5. The petitioner will serve the summons on the witness by *dasti* for the date so fixed for their examination before the trial court. The petition is allowed in above terms.

6. A copy of this order be given *dasti* under the signature of the court master to the parties.

JAYANT NATH, J.

SEPTEMBER 30, 2016/v