

31.10.2018

Present : Sh. Sandeep Jindal, Ld. counsel for plaintiff.

Sh.Kamlesh Jha, Ld. counsel for defendant.

An application under Order VI Rule 2 r/w Section 151 CPC filed on behalf of defendant for striking of the document Ex. DW 2/1 in evidence of DW 2 being beyond the pleading of the defendant.

Reply to the aforesaid application filed on behalf of defendant wherein he has contended that he has clearly averred that he is owner of the suit property making reference to para No. 2 and 13 of the written statement.

After having gone through the written statement, it is noticed that defendant has merely stated in para no. 2 and 13 of the written statement that he is the absolute owner. But nowhere in the written statement he has stated that by which document he is claiming himself as owner of the suit property. Nowhere they have mentioned any reference in the pleadings regarding the Will that he now wants to rely on Ex. DW 2/1. Ld. Counsel for the defendant has further stated that the defendant has not mentioned about the Will as the same was lying with some other person.

These averments make it absolutely clear that these facts are manufactured as if there had been any Will, the same would have been mentioned by him in his pleadings. Therefore, this document i.e Ex.DW 2/1 is struck off hereby and the same will not be considered in evidence.

Put up for **DE on 20.03.2019**

(Shivaji Anand)
ADJ-02 (North): Rohini Courts:
Delhi: 31.10.2018