



\$~20

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS (OS) 726/2014**

GYAN PRAKASH GUPTA

..... Plaintiff

Through: Mr. Pawan Sharma, Advocate.
(M:9818156973) with Plaintiff in
person.

versus

VIJAY PRAKASH & ORS.

..... Defendants

Through: Ms. Archana Gupta, Advocate for D-
2 to 11. (M:8700683588)
Mr. Shashank Khurana and Mr. Jai
Sahai Endlaw, Advocates for D-18.
(M:9711560992)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

%

23.01.2019

1. The matter has been placed before Court in view of the report by the Local Commissioner. It is submitted by Ld. Counsel for the Defendant No.18 that the Plaintiff did not arrange the venue, did not call for the record of the Court, as also failed to pay the fee of the Local Commissioner.
2. Learned counsel for the Plaintiff submits that his client cannot afford the fee of the Commissioner. Ld. counsel for Defendant No.18 submits that his client has already paid a sum of Rs.50,000/- to the Commissioner. Plaintiff has paid Rs.15,000/- in cash to the Commissioner. The remaining fee of the Commissioner shall be paid by Defendant No.18, subject to further orders to be passed at the final hearing.
3. Plaintiff has to lead his evidence. Defendant Nos.2 to 17 support the Plaintiff's case. Defendant No.1 has passed away. Defendant No.18 is contesting the matter. Plaintiff shall lead his evidence first. Defendant



Nos.2 to 17 shall then lead the evidence. After the evidence of Defendants 2 to 17 is concluded, Defendant No.18 will lead evidence. Arrangement of venue and summoning of file shall be done by Defendant No.18, subject to being adjusted in the costs of the suit.

4. List before the Commissioner on the date fixed i.e. 1st February, 2019.

5. Learned counsel for Defendant No.18 submits that Defendant Nos.2 to 11 are refusing to serve him a copy of their list of witnesses. Learned counsel for Defendant Nos.2 to 11 submits that she has already served a copy of the same to Defendant No.18. She is unable to show any acknowledgment. A perusal of the list of witnesses filed on record by Defendant Nos.2 to 11 also shows that no advance copy has been sent to Defendant No.18. The only proof of service, which is placed on record, is to the learned counsel for the Plaintiff. Clearly, the submission that the copy of list of witnesses has been supplied to Defendant no.18, is not borne out from the record. Subject to payment of Rs.5,000/- as costs, list of witnesses of Defendant Nos.2 to 11 shall be retained on record. Let a copy of the same be supplied within two days to Defendant No.18, failing which, list of witnesses of Defendant Nos.2 to 11 shall be taken off the record.

6. Considering the delay that has already been caused in this matter due to non-cooperation by the Plaintiff and the Defendants other than Defendant No.18, it is directed that Plaintiff's evidence shall be concluded by 31st March, 2019. Evidence on behalf of the Defendants shall be concluded by 30th May, 2019.

7. List before Court on 31st May, 2019.

PRATHIBA M. SINGH, J.

JANUARY 23, 2019/dk