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

+ **CS(OS) 3083/2014**

SHAKTI NATH

..... Plaintiff

Through: Mr.G.D. Chopra, Mr. Karan Nagrath
& Ms. Udit Khattar, Advs.

versus

SHASHI MOHAN CHATURVEDI AND ORS

..... Defendant

Through: Advocate.

CORAM:

**MS. DEEPALI SHARMA (DHJS), JOINT REGISTRAR
(JUDICIAL)**

ORDER
% **31.08.2017**

The witness, Mr. Mahesh Sikka, is present from Building Headquarter, Civic Centre, Minto Road, Delhi. He has produced the summoned record. His statement has been recorded as DW3.

At this stage, counsel for the plaintiff has raised an objection that since no summons have been received by the witness, therefore, his statement has to be discarded.

On 26.05.2017, the said witness was present in court, however, since the documents were illegible and, therefore, witness was discharged un-examined on that date. The said witness was present in court pursuant to order dated 19.01.2017 passed in I.A. No.11795/2017 whereby the

summoning of the said witness was allowed by the Learned Predecessor. The said witness is present in court today. The said witness has appeared before the court without process fee being filed by the defendant and without any steps being taken by the defendant. The witness states that he has appeared in pursuance of the summons received by the department for 17.03.2017 when he was bound down for 26.05.2017 and no fresh summons have been received by the witness.

It is relevant to note that the summoning of this witness already stood allowed by the Learned Predecessor on 19.01.2017. The said witness has already appeared earlier in the matter therefore the fact that he has appeared today without a fresh summon being issued to him will not entail a consequence that his evidence cannot be considered. It is not the case of the counsel for the plaintiff that the summoning of the witness has not been allowed by the Court. The objection raised by the counsel for the plaintiff is only technical in nature and is therefore disallowed.

The summoned witness from Assistant Town Planner, Town Planning Department, SDMC is present. He states that the summoned record is not traceable. He has filed a letter in this regard. Same is taken on record. He is discharged.

The summoned witness from House Tax Department, Central Zone, SDMC is also present. Counsel for the defendant states that the documents summoned from this witness have already been exhibited and this witness may be discharged. The said witness is discharged unexamined.

Witness from MCD, Central Zone, Shiv Mander Marg, Lajpat Nagar-I is not present despite service.

Issue notice under Order 16 Rule 12 CPC without PF to the witness

No. A i.e. Witness from MCD, Central Zone, Shiv Mander Marg, Lajpat Nagar-I, returnable for **08th December, 2017.**

The witness No. D i.e. from DESU, Distribution Branch/BSES Rajdhani Power Limited is unserved.

Let fresh notice be issued to the witness from DESU, Distribution Branch/BSES Rajdhani Power Limited on filing of PF and deposit of diet money, returnable for **08th December, 2017.** Steps to be taken within a week.

DEEPALI SHARMA (DHJS)
JOINT REGISTRAR (JUDICIAL)

AUGUST 31, 2017/nk