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

+ CS(OS) 318/2009

SH. MAHENDER KUMAR & ORS. Plaintiffs
Through None

versus

SHRI RAKESH AGGARWAL & ORS. Defendants
Through Mr. J P Gupta, Advocate for D-1 & 2
Mr. Paranjay Chopra, Advocate for
D - 7 & 8.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **01.04.2016**

OA No. 88/2012

1. This OA is filed by the defendant nos. 1 and 2 impugning the order of the Joint Registrar dated 15.5.2012 by which the Joint Registrar has allowed impleadment of two parties, namely, Ajay Kapahi and Bijender Singh. The subject suit is a suit for partition among these groups of family members, each group (including defendants 1 and 2) having a 1/3rd ownership in the suit property. Impleadment has been allowed on account of Ajay Kapahi and Bijender Singh claiming rights in the suit property through the documentation executed by defendant nos. 1 and 2 in favour of Ajay

Kapahi and Bijender Singh dated 08.09.2008.

2. After arguments, it is noticed that the observations which are made by the Joint Registrar in the order dated 15.5.2012 are on merits of the matter on transfer and the documentation executed between defendant nos. 1 and 2 and Ajay Kapahi and Bijender Singh and which will prejudice these persons in substantive independent proceedings which are proposed to be filed by them to enforce their rights under documentation dated 8.9.2008. This OA is allowed with consent by setting aside the impugned order, but it is clarified that any observation made on merits in the impugned order, whether of validity of documents or whether of rights of Ajay Kapahi and Bijender Singh or any other aspects on merits, would not be taken to have been finally decided as between defendant nos. 1 and 2 and Ajay Kapahi and Bijender Singh and the issue of transfer of rights of defendant nos. 1 and 2 in favour of Ajay Kapahi and Bijender Singh will be decided, including validity of documents dated 8.9.2008, in substantive independent proceedings which it is stated would be filed on behalf of Ajay Kapahi and Bijender Singh. In these independent proceedings interim order if granted in favour of Ajay Kapahi and

Bijender Singh, the same will operate against the defendants no. 1 and 2 in this suit as also the other parties to the present suit inasmuch as if Ajay Kapahi and Bijender Singh have the rights in the suit property from defendants no.1 and 2, any order in this suit should not prejudice Ajay Kapahi and Bijender Singh.

3. This OA is disposed of as allowed, subject to the aforesaid liberty to file independent proceedings and the aforesaid observations.

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4. Since an Office Order dated 24.11.2015 has been issued by Hon'ble the Chief Justice in exercise of powers conferred by Section 4 of the Delhi High Court (Amendment) Act, 2015, whereby ordinary suits which are not commercial matters having pecuniary jurisdiction up to the value of rupees two crores cannot be tried by this Court and commercial matters up to the value of rupees one crore cannot be tried by this Court, accordingly, this suit is transferred for decision to the jurisdictional Court under the District & Sessions Judge (South West), Dwarka Courts, New Delhi.

5. Let parties appear before the District & Sessions Judge (South West), Dwarka Courts, New Delhi on 13th May, 2016. Suit file be

made available to the District & Sessions Judge (South West),
Dwarka Courts, New Delhi on the date fixed.

VALMIKI J. MEHTA, J

APRIL 01, 2016

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