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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 284/2012 & C.M. No. 4292/2012
UCO BANK

..... Petitioner

Through Mr. Rajesh Rattan, Adv.

versus

TEK CHAND NARULA & ORS

..... Respondents

Through Mr. S.N. Chaudhri, Ms. Shruti
Chaudhri and Mr Sukreet, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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17.03.2016

The petitioner is aggrieved by the order dated 14.01.2011 passed by the Civil Judge wherein after the suit had been withdrawn, proceedings under Order XXXIX Rule 2-A of the CPC were kept alive. Contention is that such an application can survive only during the pendency of the suit. To support this submission, reliance has been placed upon (2012) 4 SCC 307 Kanwar Singh Saini Vs. High Court of Delhi.

The impugned order arises of the suit which had been filed by Tek Chand Narula and Others against UCO Bank and another. This suit was finally withdrawn on 25.01.2010 as the suit property stood vacated by the Bank.

Learned counsel for the non-applicant/respondent submits that an application under Order XXXIX Rule 2-A of the CPC which is an individual right against a person was maintainable and could have

been kept alive; the impugned order suffers from no infirmity.

Needless to state that this argument has been refuted and the reliance by the learned counsel for the petitioner on the judgment of Kanwar Singh Saini (supra) is well placed. This judgment has laid down the ratio that an application under Order XXXIX Rule 2-A of the CPC survives only during the pendency of the suit and once the suit had been disposed of/decreed, such an application which is distinct from an application under the Contempt of Court Act will not survive. Relevant extract of the aforementioned judgment which would be applicable to the proceedings before this Court are extracted herein as under:-

“ Once the suit has been decreed, the court could not entertain the application under Order 39, Rule 2A Code of Civil Procedure as the suit had already been decreed and such an application is maintainable only during the pendency of the suit in case the interim order passed by the court or undertaking given by the party is violated.”

In this background, the petition is allowed. The proceedings before the Trial Court are quashed. Petition disposed of.

INDERMEET KAUR, J

MARCH 17, 2016

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