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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 139/2016, C.M. No.4975/2016, C.M. No.4976/2016 &
C.M. No.4977/2016
RAHUL MALIA

..... Petitioner
Through Mr. Sanjay Jain and Mr. Naveen
Sharma, Advs.

versus

NAVAL KISHORE SHARMA & ORS

..... Respondents
Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **10.02.2016**

The petitioner is aggrieved by the order dated 22.01.2016 vide which his application seeking impleadment (under Order 1 Rule 10 of the CPC) had been dismissed.

Record shows that the present suit is a suit for injunction which has been filed by Naval Kishore Sharma against the two defendants; the defendants are related to the plaintiff. The prayer in the suit seeks a permanent injunction against the defendants in favour of the plaintiff restraining the defendants from dispossessing the plaintiff illegally from the suit property i.e. the property No. 3/1092, Gandhi Gali, Chandni Chowk, Delhi.

The petitioner before this Court is the son of the plaintiff. He had sought impleadment before the Trial Court. His submission was that the suit property was an ancestral property and the Trial Court had referred the matter for mediation wherein a settlement was proposed to be

arrived at between the plaintiff and the defendants which would oust the petitioner who also has a valuable right in this ancestral property which has devolved from his ancestors. Attention has been drawn to this settlement, a copy of which has been placed on record, purported to be dated 25.01.2016. The Trial Court had appreciated the facts in the correct perspective. A person can seek impleadment only if he is a 'necessary' or a 'proper' party; who is a 'necessary' or 'proper' party is without whom the effective adjudication of the suit cannot be carried out. At the cost of repetition, present suit is a suit for injunction. It is not a title suit. The Trial Court even otherwise cannot go beyond the prayers made in the suit and the apprehension (if any) of the applicant that his title will get disturbed by the aforementioned proceedings is a submission bereft of force. If the petitioner has any right on the so called ancestral property, he has an independent right to seek an independent remedy.

Impugned order, in this background, suffers from no infirmity. Dismissed with costs quantified as Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 10, 2016

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