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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 385/2014 & C.M. No.7058/2014
PREM KUMAR MANRA

..... Petitioner

Through Mr.Praveen Mahjan, Advocate.

versus

D D JOSHI

..... Respondent

Through

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **20.01.2016**

Order impugned before this Court is the order dated 03.02.2014. The application filed by the defendant under order VII Rule 11 CPC seeking rejection of the plaint had been dismissed and rightly so.

The suit of the plaintiff was based on a circular dated 08.11.2010. Although this circular had been signed by the president of the society Mr.Prem Kumar Manra and his designation as the president of the Group Housing Society has been mentioned therein yet perusal of this circular which had become the subject matter of the suit and the averments contained in the plaint clearly show that the claim of damages set up by the plaintiff of Rs.5 lakhs was based on the circular having been issued by the defendant; the claim made by the plaintiff against the defendant was in his personal capacity. It did not in any manner touch upon the business, management or constitution of the cooperative society and as such the bar of section 70 of the Delhi

Cooperative Societies Act, 2003 would not apply.

The law on Order VII Rule 11 CPC is clear. It is only the averments made in the plaint which have to be looked into to consider such an application. The defence of the defendant is not relevant. Impugned order in this background calls for interference. Petition is without any merit. It is dismissed with costs of Rs.10,000/-

INDERMEET KAUR, J

JANUARY 20, 2016

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