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

+ CM(M) 227/2016 & C.M. No.8665/2016 (stay)

SAHANA BEGUM

..... Petitioner

Through Mr.M.P.Singh and Ms. Mumtaz
Hashmi, Advocates.

versus

ABRAR ALAM & ORS

..... Respondents

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **09.03.2016**

Petitioner is aggrieved by the order dated 22.02.2016 wherein his application under Order VII Rule 11 of the CPC was dismissed. Submission is that the suit for permanent injunction was liable to be disposed of in view of the averments contained in the application filed by the defendant under Order VII Rule 11 of the CPC as in the plaint itself, it has been admitted by the plaintiff that there is a registered agreement to sell qua the suit property in favour of defendant no.1 Attention has been drawn to that averment.

The facts disclose that the present suit is a suit for permanent injunction which has been filed by the plaintiff against four

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defendants. Petitioner before this Court is defendant no.1. Contention of the petitioner is that the prayer in the suit is a prayer for permanent injunction. Needless to state that in a suit for permanent injunction, title of the suit property is not a question which has to be gone into. The proposition at law on an application under Order VII Rule 11 of the CPC is also clear; it is only the averments made in the plaint which have to be looked into; the defence of the defendant cannot be gone into.

In the averments made in the plaint, although the registered agreement to sell has been admitted by the plaintiff qua defendant no.1 yet the contention is that this agreement was entered into by a fraud which has been played upon the plaintiff. The details of the earlier litigation pending between the parties have also been detailed in the plaint. Further contention of the plaintiff is that he is in possession of the suit property in her own right and she should not be dispossessed. At the cost of repetition, this Court notes that the Trial Court in a suit for injunction will not go into the question of title.

In this background, the submission of the petitioner (defendant in the Trial Court) that the suit is liable to be rejected straightway as the plaintiff herself had admitted that there is a registered agreement to sell in favour of defendant no.1 is an argument bereft of merit. Admittedly, even if there is a registered agreement to sell that will not convey a title in immovable property. In a suit for permanent injunction title is also not relevant, it is the possessory nature of the property which is relevant.

In this background, the impugned order which was passed under the provisions of Order VII Rule 11 of the CPC in view of the specific averments made in the plaint, is an order which calls for no interference. This petition is dismissed with costs of Rs.10,000/-.

INDERMEET KAUR, J

MARCH 09, 2016
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