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

+ CM(M) 819/2016

SHRI RAM DASS Petitioner

Through Mr.Niraj Chaudhary and
Mr.A.S.Sharma, Advocates.

versus

RAJINDER PAL & ORS Respondents

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **24.08.2016**

CM No. 30793/2016 (exemption)

Exemption is allowed subject to all just exceptions.

**CM(M) 819/2016 and CM Nos.30792/2016 & 30794-95/2016 (for
condonation of delay in filing and re-filing the petition)**

1. By the present petition, the petitioner seeks to impugn the order dated 05.01.2016 by which the application filed by the petitioner under Order 11 Rule 12, 14 & 16 CPC was dismissed.

2. The petitioner has filed a suit for permanent injunction and mandatory injunction. A decree of permanent injunction is sought against defendants No.1, 2 & 7 to restrain them from selling, transferring, alienating or creating third party interest without the consent of the petitioner and to restrain them from dispossessing the petitioner from the suit property i.e. portion measuring 37.5 sq. yds. of the property No.C-31, Sanwal Nagar, New Delhi.

A decree of mandatory injunction is also sought against defendants No. 1, 2 & 7 directing them to remove the encroachment and hindrance created by them in the suit property.

3. The application that was filed by the petitioner seeking a direction against respondents No.1 and 2 to produce ownership document of remaining 50 sq. yds. forming part of the suit property.

4. It is the contention of the petitioner that the property in question is 150 sq. yds. and that the petitioner has filed the title documents pertaining to 100 sq. yds. of the property. The defendants are said to be in possession and power of the ownership documents relating to the suit property regarding the balance 50 sq. yds in the name of mother Smt. Chanderwati.

5. The trial court held that there is no dispute as regards the ownership of the suit property i.e. the deceased mother of the parties, namely, Smt. Chanderwati. The dispute is with respect to the possession of the suit property and whether the same was partitioned between the successors of Smt. Chanderwati. Accordingly, the application was dismissed.

6. Learned counsel appearing for the petitioner has relied upon the legal notice that was served on the respondents No.1 and 2 whereby they were asked to produce the ownership document of 50 sq.yds. relating to the suit property. Reliance is placed on the reply dated 20.08.2014 received from the said respondents where they have said that unless and until, the court passes an appropriate order in this regard, the defendants are not liable to produce the documents. It is stated that in view of the above, it is clear that the said respondents are in possession of the documents and ought to have been directed to produce the document. He also submits that there is a dispute regarding the area of the plot as the respondents are disputing that the area is

150 sq.yds.

7. Admittedly, as far as the written statement of the respondents is concerned, a perusal of the same shows that there is no dispute raised that the property has been purchased in the name of the mother, namely, Smt.Chanderwati. In para 2 of the written statement, there is a clear statement that the property was owned by Smt. Chanderwati. Hence, the observations of the trial court to that effect are in order.

8. Order 11 Rule 14 CPC provides that it shall be lawful for the court to order production to any party of any document relating to any matter in question. Order 11 Rule 12 CPC also deals with the documents which relate to any matter in question. Title of Smt. Chanderwati is not in dispute. The document sought only shows title of Smt. Chanderwati. The trial court has rightly disallowed the present application. There are no reasons to exercise discretion to interfere in the said order. The petition is accordingly, dismissed.

9. All pending applications also stand dismissed.

JAYANT NATH, J

AUGUST 24, 2016

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