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

+ **FAO(OS) 270/2015**

SANDEEP CHHATWAL

..... Appellant

Represented by: Mr.Rajesh Bhatia, Advocate with
Mr.Akhil Gusain, Advocate

versus

PISHORI LAL CHHATWAL & ORS

..... Respondents

Represented by: Mr.Sunder Khatri, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **29.01.2016**

CM No.9203/2015

The application is dismissed as withdrawn for the reason permission sought for in the application is to produce additional evidence, ignoring that the suit has yet to be set down for trial. Parties have yet to lead their evidence.

FAO (OS) No.270/2015

1. The appellant who is the son of respondent No.1 is litigating with his father, children of his deceased brother and two living brothers as also a sister. He has filed a suit for partition.

2. His grievance is to the fact that vide impugned order dated January 29, 2015 the learned Single Judge has vacated the ex-parte ad-interim injunction granted concerning property bearing No.3234-P, Sector-23A, Gurgaon Haryana, for the reason the property is registered in the name of

appellant's father and claim of the appellant that its purchase was financed by an HUF of the family was merely an allegation unsupported by any document on which a prima-facie opinion could be formed.

3. Learned counsel for the appellant concedes that no document was shown to the learned Single Judge to prima-facie establish any fund flowing from the HUF when the property was purchased in the name of the father.

4. If that be so the learned Single Judge is correct in vacating the ex-parte injunction granted.

5. We note that the appellant is in possession of the property and thus it would be difficult for the respondent No.1 to find a buyer; because sans possession nobody would buy the property. That apart, lis pendence would apply.

6. We dispose of the appeal by simply directing that if respondent No.1 was to sell or encumber the property in question the pendency of the suit would be disclosed to the buyer or the person in whose favour the property is encumbered and would file an affidavit in the suit disclosing the name of the said person.

7. No costs.

CM No.9201/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

JANUARY 29, 2016

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