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

+ CM(M) 411/2016

SUMIT AGGARWAL & ORS

..... Petitioner

Through Mr.Ajay Arora and Mr.Kapil Datta,
Adv.

versus

NARESH ARORA & ANR

..... Respondent

Through Mr.Naresh Arora/R-1 in person
Mr.Jatin Aggarwal, Adv. alongwith R-2 in person
with his son Mr.Dinesh Jain

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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14.09.2016

This matter has been taken up today as 13.09.2016 was declared a holiday on account of Eid.

1. By the present petition the petitioner seeks to impugn the order dated 19.3.2016 passed by the trial court by which an application filed by the petitioner under Order 22 Rule 10 CPC read with order 1 Rule 10 CPC for impleading the petitioner as a plaintiff on the ground that the plaintiff/respondent No.1 Shri Suresh Chander Jain has sold the property in question to the petitioner was dismissed.

2. The plaintiff/respondent No.2 filed the present suit against the defendants/respondent No.1 for ejectment, possession recovery of damages, mesne profits and permanent injunction. It is contended in the plaint that respondent No.2 had let out the entire first floor of the property bearing No.D-29, Satyawati Nagar, Delhi for a period of 11 months to respondent No.1. The petitioners filed the present application under Order 22 Rule 10

CPC read with order I Rule 10 CPC to point out that the petitioners had purchased the property in question by way of registered sale deed dated 7.9.2015 from its owner Shri Suresh Chander Jain/respondent No.2. Copy of the sale deed was annexed to the application. Based on the same it was prayed that the petitioners may be impleaded as plaintiffs in place of Shri Suresh Chander Jain/respondent No.2.

3. The trial court vide impugned order noted that prima facie there was no justified ground, at this stage, to substitute the proposed plaintiffs in place of the original plaintiff/respondent No.2. The application was hence dismissed.

4. I have heard learned counsel for the parties and also respondent No.1 who is appearing in person. Shri Suresh Chander Jain and his son Shri Dinesh Jain are present in person. Shri Dinesh Jain submits that his father Shri Suresh Chander Jain is a senior citizen and is suffering from medical problems. Both Shri Suresh Chander Jain and Shri Dinesh Jain submit that they have no objection to the present application.

5. In my opinion, there are no cogent reasons given in the impugned order as to why the application has not been allowed.

6. The petitioner has placed on record a photocopy of the registered sale deed. There is no dispute that respondent No.2 was the landlord/owner of the premises. Order 22 Rule 10 provides that in case of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved.

7. The petitioner has bought the suit property. He would be a necessary and proper party to the present suit. The interest of respondent No.2 has

devolved upon them.

8. Accordingly, the impugned order dated 19.3.2016 is quashed. Application of the petitioner under Order 22 Rule 10 read with Order 1 Rule 10 is allowed. Respondent No.2 is deleted as a plaintiff from the suit.

9. Petition stands disposed of. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

SEPTEMBER 14, 2016

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