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

\+ FAO(OS) 346/2015

MOHIT KUMAR ..... Appellant

Represented by: Ms.Risha Mittal, proxy Adv.

versus

VIMAL DHASMANA & ANR ..... Respondent

Represented by: Mr.Sanjeev Agarwal,
Mr.Ekansh Agarwal, Advs.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

O R D E R

% **19.02.2016**

CM 11629/2015

Exemption allowed subject to just exceptions.

FAO(OS) 346/2015

1. The appellant is a lawyer. He has filed the appeal in person. On July 10, 2015 a proxy counsel Mr.R.S.Sharma appeared and sought an adjournment. Hearing of appeal was deferred for August 07, 2015, on which date one Ms.Anita Sharoha appeared and informed that the appellant is having a serious health issue. Hearing was deferred for November 23, 2015. On said date Mr.R.S.Sharma appeared. Hearing was deferred for February 19, 2016 i.e. today.

2. Ms.Risha Mittal, proxy counsel seeks adjournment stating that the mother of the appellant is unwell. We are not inclined to adjourn the matter for the reason a frivolous appeal has been field and is simply being got

adjourned.

3. Vide impugned order dated February 02, 2015, the application seeking interim injunction was disposed of by the learned Single Judge. Interim Order granted on November 28, 2014 has been vacated. Plaint has been directed to be returned, to be re-filed in the District Court.

4. The learned Single Judge has noted that the appellant is a chronic litigant.

5. Admitted facts noted by the learned Single Judge are that with respect to the suit property, owned by appellant's father, a will was relied upon by Himalayan Institute Hospital Trust, a registered society. As per the society the appellant trespassed into the property after his father died and the society filed suit No.231/2003 (New No.768/2014) for declaration and possession. The suit is pending.

6. Probate of the will is also pending.

7. Appellant filed a suit registered as No.20/1999 in which the society made a statement that the appellant would not be dispossessed other than by due process of law.

8. Ignoring other multifarious litigations commenced by the appellant, suffice it to note that in the instant suit filed by the appellant claiming injunction the trust once again stated that it abides by its earlier undertaking recorded in the suit filed by the appellant and would regain possession if law permits, meaning thereby, depending upon the result of the suit for possession filed by the trust.

9. We therefore agree with the view taken by the learned Single Judge that another suit for injunction would not lie.

10. As regards the remainder relief the learned Single Judge has rightly

held that since pecuniary value thereof was less than ₹20 lakhs the plaint had to be returned to be re-filed in the Court of appropriate pecuniary jurisdiction.

11. The appeal is dismissed in limini.

CMs.11630-11631/2015 (addl.documents & stay)

Dismissed.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 19, 2016
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