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

% *Date of Decision: 12.07.2016*

+ CM(M) 654/2016

BHARAT BHUSHAN BAJAJ & ORS Petitioners
Through Mr. M.L.Mahajan and Mr. Gaurav
Mahajan, Advocates.
versus
J S MEHTA Respondent
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (Oral)

CM No. 24146/2016 (exemption) in CM(M) 654/2016

Exemption is allowed subject to all just exceptions.

CM(M) 654/2016 and CM no. 24147/2016 (stay)

1. By the present petition, the petitioner seeks to impugn the order dated 02.04.2016 by which the application filed by the petitioner for rejection of the plaint under Order VII Rule 11 CPC was dismissed.
2. The respondent has filed the present suit for possession, recovery of future mesne profits/damages and for permanent injunction regarding property No. 32, Block 3, Old Rajinder Nagar, Delhi.
3. Learned counsel appearing for the petitioner submits that the impugned order has erroneously dismissed the application of the petitioner inasmuch as there is nothing on record whatsoever to show that the respondent is the owner of the suit property and that a frivolous suit has been filed against the petitioner. He further submits that the petitioner is a

tenant of one Smt.Kanta Mehta and that in any case, the petitioner has nothing to do with the respondent. Hence, he submits that the present plaint is utterly frivolous and has to be dismissed. He also relies upon the observations of the Court of Sh. Satish Kumar Arora, ARC-1 passed in a petition filed by the respondent/plaintiff under Section 14 (1) (a) dated 07.06.2013 to contend that the respondent does not have any title to the suit property.

4. A perusal of the plaint shows that the following averments have been made in the plaint:-

“1. That the plaintiff is an absolute and lawful owner of the property bearing No. 32, Block-3, Old Rajinder Nagar, Delhi by virtue of a Will and vide Compromise entered into between the plaintiff and one late Mrs. Kanta Mehta and her Legal heirs u/O 23 Rule 3 of CPC, in Suit No. 80/97, titled as Shri J.S. Mehta vs. Smt. Kanta Mehta and others in the court of Sh.Y.S. Zonwal, ADJ, Delhi (The then was). That the copy of which is annexed herewith as Annexure-A.

2. That the defendant No.4 is the wife of Late Sh. Shiv Ram Bajaj and remaining defendants are the legal heirs of Late Sh. Shiv Ram Bajaj, who was a tenant in respect of the shop No. 1 in the property bearing No. 32, Block-3, Old Rajinder Nagar, Delhi.

3. That the Husband of the defendant No.4 and the father of the remaining defendants is Late Shiv Ram Bajaj in his life time, and after him his son is the defendant No.1 has malafidely and dishonestly, in collusion and convince, earlier with Late Mrs. Kanta Mehta and now her legal heirs is denying the fact that, the plaintiff has become the absolute and lawful owner of the property bearing No.32, Block -3 Old Rajinder Nagar, Delhi by virtue of a Will and vide compromise entered into between the plaintiff and one late Mrs. Kanta Mehta and her Legal heirs, u/O 23 Rule 3 of CPC, in Suit No. 80/97, titled as Shri

J.S.Mehta vs. Smt. Kanta Mehta and others in the court of Sh.
Y.S. Zonwal, ADJ, Delhi (the then was).”

5. The facts of the present petition are akin to that of CM(M) 653/2016 which has been dismissed by this court on the same date.

6. Hence the present petition also stands dismissed on the same grounds.

JAYANT NATH, J

JULY 12, 2016

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