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

+ C.R.P. 145/2016

JAGMOHAN SINGH

..... Petitioner

Through Mr.Sujeet Kumar Mishra, Advocate

versus

SHIPRA VERMA & ORS

..... Respondents

Through None.

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

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**09.09.2016**

**CM No.33090/2016** (*exemption*)

Allowed subject to all just exceptions.

**CRP No.145/2016 & CM No.33091/2016** (*stay*)

1. By the present petition, the petitioner seeks to impugn the order dated 26.07.2016 passed by the trial court dismissing the application of the petitioner under Order 7 Rule 11 CPC for rejection of the plaint on the ground that the suit is undervalued.
2. Respondent No.1 has filed the present suit for recovery of possession and for recovery of a sum of Rs.33,00,000/-.
3. For the relief of possession, the valuation clause states that the suit for the purpose of court fees and jurisdiction is said to be valued at Rs.40,00,000/- which being the amount of sale consideration paid by the plaintiff/respondent No.1 to defendants No.2 and 3, i.e. respondents No.2 and 3.

4. The trial court noted that the issues were framed on 29.08.2013 and the evidence is going on. Issue No.3 has been framed namely “Whether the suit property valued for the purposes of court fees and appropriate fee has been affixed? OPP”

5. The trial court had declined to treat the said issue as a preliminary issue. The trial court also noted that an application under Section 10 CPC filed by the petitioner was dismissed on 21.05.2010. Earlier also the petitioner had fled an application under Order 7 Rule 11 CPC but had not sought rejection of the plaint on the ground of deficient court fees and the suit being undervalued. The trial court noted that the plaintiff/respondent No.1 has undertaken to pay court fees as determined by the court upon the final adjudication of the issues pertaining to the valuation. The application was accordingly dismissed.

6. I have heard the learned counsel for the petitioner.

7. It is clear that earlier also an application under Order 7 Rule 11 CPC was filed though it is stated that the application pertained to absence of privity of contract between the petitioner and respondent No.1. The petitioner cannot repeatedly keep filing applications seeking the same relief based on different grounds.

8. While considering the application under Order 7 Rule 11 CPC, the court has to look at the averments in the plaint, and the accompanying documents. The plaintiff/respondent No.1 has valued the suit property. The petitioner has disputed the same and submits that as per valuation report filed by him the suit property is valued at Rs.1 crores. The issue raised by the petitioner is a disputed question of law and fact. An issue to the said effect has already been framed. In my opinion, the provisions of Order 7

Rule 11 CPC are not attracted on the facts of this case. The petition is dismissed. All the pending applications are also dismissed.

**JAYANT NATH, J.**

**SEPTEMBER 09, 2016/v**