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

+ **CM(M) 896/2016**

CHARANJIT SINGH

..... Petitioner

Through

Mr.Naresh Thanai, Mr.J.P.Singh &
Mr.Himanshu Pathak, Advocates

versus

CHANDRASHEKHER CHOPRA & ORS

..... Respondents

Through

Dr.Surat Singh & Ms.Pratibha
Chopra, Advocates

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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09.09.2016

CM No.33068/2016 (*exemption*)

Allowed subject to all just exceptions.

CM(M) No.896/2016 & CM No.33067/2016 (*stay*)

1. By the present petition, the petitioner seeks to impugn the order dated 08.08.2016 whereby a direction was passed restraining defendants No.2 and 3/ petitioner and respondent No.3 not to sell or create any third party interest with regard to the suit property i.e. Property No.C-95, Farmers Apartment, Sector-13, Rohini, Delhi- 110 085.

2. The learned counsel for the petitioner submits that there is no suit property and the suit is filed for recovery of Rs.50,00,000/-. He also points out that earlier this court had passed an injunction order to maintain *status quo* regarding the said property at Property No.C-95, Farmers Apartment, Sector-13, Rohini, Delhi- 110 085 but subsequently on an application filed

by the petitioner under Order 39 Rule 4 CPC, on 11.11.2013 the *status quo* regarding the said property at Rohini, Delhi was vacated. To secure the claim of the plaintiff/respondent No.1, the petitioner/respondent No.3 were directed not to alienate, part with or create any third party interest in respect of their 50% share in the property No.3622-25 and 3990-95, Ward No.XII, Roshanara Road, Subzi Mandi, Delhi. The petitioner/respondent No.3 were also directed to place on record the certified copy of the registered sale deed in respect of the said property.

3. He submits that now the impugned order dated 08.08.2016 has been passed without there being an application on record filed by the respondent or without any grounds or basis for the trial court to pass the order undoing what this court had done when the matter was pending before this court on 11.11.2013.

4. Dr.Surat Singh, the learned counsel appearing on behalf of respondent No.1 at the outset frankly submits that there has been no application filed by respondent No.1 seeking this order. He, however submits that subsequent to the order dated 11.11.2013 respondent No.1/plaintiff has received information that the property at Roshanara Road, Subzi Mandi, Delhi is hardly of any value. There are 14 tenants existing in the property and it is not sufficient security to secure the claim of the respondents.

5. Be that as it may, the impugned order could not have been passed by the trial court without an application filed by respondent No.1 and without a conclusion that *prima facie* the property in question at Roshanara Road, Subzi Mandi, Delhi is not sufficient security to secure respondent No.1 and that this fact came to the knowledge of respondent No.1 after 11.11.2013. A party cannot repeatedly keep filing applications seeking the same relief

unless there are changed circumstances (see *AIR 1964 SC 993, Arjun Singh v. Mohinder Kumar*).

6. In view of the above, liberty is granted to respondent No.1/plaintiff to move appropriate application before the trial court giving full facts. The needful be done within a period of one week from today.

7. The present stay passed by the impugned order shall continue to operate only for period of one week from today. The petition stands disposed of. All the pending applications are also disposed of.

8. A copy of this order be given *dasti* under the signature of the court master to the parties.

JAYANT NATH, J.

SEPTEMBER 09, 2016/v