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

+ CM(M) 975/2016

NAMAN BHATIA

..... Petitioner

Through Mr.Abhay Kumar, Advocate.

versus

SARDAR SINGH MAKKAR

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **07.10.2016**

CM No. 35577/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 975/2016 and 35578/2016 (stay)

1. The present petition is filed by the petitioner/objector in the eviction petition to impugn the order dated 20.08.2016 whereby the application of the petitioner seeking rejection of the eviction petition on the grounds of misrepresentation was dismissed. It was stated by the petitioner in the application that actually the petitioner is in possession of the suit property. The respondent is an outsider and has no right to file the present eviction petition.

2. The trial court vide impugned order dismissed the application stating that the petitioner has already been impleaded as respondent in the case. He is at liberty to take objections in his leave to defend application. A perusal of the impugned order shows that what the petitioner claims is that the property

was originally allotted to one Smt. Kamla Devi in 1984. The possession was also given to the original allottee. Thereafter, the property is said to have been disposed off to one Smt Shakuntala Devi by way of GPA and agreement to sell. Subsequently, in 1989, Smt. Shakuntala Devi disposed off the property to one Sh.Sushil Kumar Saxena who disposed off the property to Sh.Bhag Singh. On 16.10.2013, Sh. Bhag Singh is said to have disposed off the property to the petitioner. It is also stated that the petitioner has also sold the property to Ms.Nidhi Bhatnagar.

3. A perusal of the eviction petition filed shows that the said respondent claims to have bought the property from the actual allottee Smt. Kamla Devi.

4. Obviously, this dispute cannot be settled at the threshold as the petitioner seeks. In my opinion, the trial court has rightly held that as the petitioner has been impleaded as a party, he is free to raise the objections in his leave to defend application and the eviction petition cannot be dismissed at this stage. There is no infirmity in the impugned order.

5. The petition is dismissed.

JAYANT NATH, J

OCTOBER 07, 2016

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