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

+ C.R.P. 4/2017 and CM Nos. 958-59/2017

PARAMJIT SINGH

..... Petitioner

Through Mr.Jitendra Kumar Jha, Mr.Binod
Kumar Jha and Mr.Tribindh Kumar, Advocates.

versus

KULVINDER KAUR KATARIA

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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10.01.2017

1. By the present petition filed under Section 115 CPC, the petitioner seeks to impugn the order dated 03.12.2016 by which his application under Order 7 Rule 11 CPC was dismissed.
2. The respondent has filed a suit for partition for properties as per Schedule A which include properties at Khajoor Road, Joshi Road, Karol Bagh and Narayana Industrial Area, Phase I, New Delhi.
3. The basic objection of the petitioner is that the suit has been valued for the purpose of court fees and jurisdiction @ Rs. 51 lacs whereas he submits that as per the circle rate of the area, the value of the properties would be beyond Rs.2 crores and the court of District Judge, Tis Hazari would have no pecuniary jurisdiction to try the present suit.
4. By the impugned order, the trial court noted that the

plaintiff/respondent claims herself to be in constructive possession of the suit properties. Further, it also noted that ultimately, if the court comes to the conclusion that the the appropriate court fees have not been paid by the respondent or that the present suit has not been valued properly, even at that stage, the respondent can be asked to pay the court fees.

5. Firstly, it is manifest that what the petitioner is agitating is actually an application which would be under Order 7 Rule 10 CPC. Be that as it may, the value of the property would be a disputed question of fact and hence, the trial court has rightly left the issue open to be adjudicated upon at a subsequent stage. In my opinion, there is no infirmity in the impugned order.

6. The present petition is without merit and is dismissed. All pending applications also stand dismissed.

JAYANT NATH, J

JANUARY 10, 2017

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