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

+ CM(M) 105/2017

NAVED YAR KHAN AND ANR. Petitioners

Through Petitioners in person

versus

HAYAT YAR KHAN AND ORS. Respondents

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **27.01.2017**

CM No.3249/2017(exemption)

Allowed subject to all just exceptions.

CM(M) No.105/2017 & CM NoS.3244-48/2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioners seek to impugn the order dated 11.11.2016 by which their application under Order 7 Rule 11 CPC was dismissed.
2. Respondent No.1 has filed the suit stating that his father late Sh.Nawab Sultan Yar Khan owned various moveable and immoveable properties. He died on 15.06.1995 leaving behind four sons, namely Mohd. Naved Yar Khan, petitioner No.1 herein, Mohd.Sikander Yar Khan, Mohd.Feroz Yar Khan and Mohd.Hayat Yar Khan and four daughters.
3. It is urged that petitioner No.2 Ms.Rubina Sultan was born with cerebral palsy and continues to suffer from the same disease. The case of respondent No.1 in the plaint is that petitioner No.1 is acting as her guardian

and wants to sell property which belongs to petitioner No.2. Hence, in the suit it is prayed that petitioner No.1 be restrained from selling the share of petitioner No.2.

4. The trial court dismissed the application of the petitioners holding that no ground is made out to pass an order under Order 7 Rule 11 CPC.

5. It was put to petitioner No.1, who was appearing in person, as to how a suit restraining him from selling the assets of petitioner No.2 is liable to be dismissed under Order 7 Rule 11 CPC. No specific answer was forthcoming to show that the suit does not disclose a cause of action or is barred by law.

6. There is no merit in the present petition and the same is accordingly dismissed. All the pending applications are also dismissed.

JAYANT NATH, J.

JANUARY 27, 2017/v