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

+ CM(M) 214/2017

T VENKAT RAM REDDY

..... Petitioner

Through Mr.Anupam Srivastava, Sr. Advocate
with Ms.Niharika and Mr.Shikhar Sareen,
Advocates

versus

M/S BLUE CHIP CAPITAL SERVICES PVT
LTD & ANR

..... Respondent

Through Mr.Sanjeev Puri, Sr. Advocate with
Mr.Kamal Kumar, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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02.03.2017

CM No.7066/2017 (exemption)

Allowed subject to all just exceptions.

CM(M)214/2017

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 09.01.2017 by which his application under Order 6 Rule 17 CPC for amendment of the plaint was allowed subject to costs of Rs.1,00,000/-. The grievance of the petitioner pertains to the imposition of costs of Rs.1,00,000/- and certain observations made in the impugned order.

2. The brief facts are that the petitioner has filed a suit for cancellation of Deed of Assignment dated 9.8.2012 which is registered before the Sub Registrar in respect of property known as 'Silver Arch', Plot No.22, Feroze

Shah Road, New Delhi. The said deed of assignment mentions consideration of Rs.1.5 crores.

3. In the written statement the respondents/defendants pointed out that in fact two deeds of assignments were executed and registered. The first being dated 9.8.2012 which mentions a consideration of Rs.1.5 crores and second one being dated 3.9.2012 which mentions the valuation of Rs.7.13 crores.

4. In view of the above averments the present application was filed under Order 6 Rule 17 CPC seeking to amend the plaint and to also include the relief for cancellation of second deed of assignment dated 3.9.2012 alongwith a payment of appropriate court fees. By the impugned order the trial court allowed the amendment application. It, however, noted that no plausible explanation has been given as to why there is no reference to execution of the second deed of assignment dated 3.9.2012 in the plaint. It concluded that facts were concealed to undervalue the suit for the purpose of avoiding the requisite court fees and seeking ex parte restraint order against the respondent company. Based on these findings that the petitioner has concealed relevant facts the court had imposed costs of Rs.1,00,000/- and vacated the injunction order but permitted the petitioner to amend the plaint.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner submits that the observations made imply that the interim order was passed due to suppression of material facts by the petitioner. He submits that the only interim relief that was granted to the petitioner was based on the report of the Local Commissioner who had confirmed that it was the petitioner who was in physical possession of the suit property. Based on this report of the Local Commissioner the court had passed an injunction order restraining the respondent from dispossessing the

petitioner from the suit property except by due process of law. He submits that the said finding will prejudice the petitioner in many ways and the finding is erroneous.

7. Learned senior counsel appearing for the petitioner relies upon paragraph 19 of the plaint to point out that one of the grounds taken in the plaint was that the deed of assignment is for a mere consideration of Rs.1.5 crores whereas the market value of the property is Rs.10 crores. He submits that this averment having been made in the plaint, it is clear that there was suppression of material facts.

8. I am exercising supervisory powers under Article 227 of the Constitution of India. The scope of interference in the impugned order is limited. In my opinion, the observations made by the trial court are necessarily prima facie observations for the purpose of adjudication of the amendment application and the injunction application. Hence, there is no occasion to interfere in the same. Further, learned counsel appearing for the petitioner submits that the costs have already been paid.

9. With the above observations, the present petition stands disposed of. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

MARCH 02, 2017

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