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

\+ CM(M) 255/2017 and CM Nos. 8468-69/2017

DR SOHANLAL @ SOHANLAL DAFTRY ..... Petitioner
Through Mr.Deepesh Oswal, Advocate.

versus

MUNISHRI NAGRAJJI SPIRITUAL CENTRE ..... Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

O R D E R

% 03.03.2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to challenge a direction passed by the trial court vide order dated 07.02.2017 whereby the petitioner/defendant was directed to file a plan of front elevation as well as plan of the rooms in his possession earmarking the same in red colour. The same direction was passed on 21.02.2017.

2. The respondent has filed a suit for possession, damages and mesne profits claiming that it is the absolute owner of the property. A decree of possession is sought in respect of four rooms along with adjoining terrace said to be occupied by the petitioner on the second floor of the suit premises.

3. The petitioner seeks to argue that he is not having possession of the second floor of the premises. In fact, the petitioner has filed an application under Order 7 Rule 11 CPC itself stating that the second floor in fact does

not exist in the premises and hence, a decree cannot be passed. It is in these circumstances that the said order has been passed.

4. I have heard learned counsel for the petitioner.

5. He relies upon the judgment of the Supreme Court in the case of ***Bachhaj Nahar vs. Nilima Mandal and Anr., AIR 2009 SC 1103*** to contend that in civil proceedings, a relief can only be granted with reference to the prayers made in the pleadings.

6. The application under Order 7 Rule 11 CPC is being heard. A mere direction to file a plan cannot be a subject of a petition under Article 227 of the Constitution of India. The trial court has merely exercised its discretion and passed directions which do not warrant any interference by this court exercising supervisory powers under Article 227.

7. In view of the above, the present petition stands dismissed.

8. All pending applications also stand dismissed.

JAYANT NATH, J

MARCH 03, 2017
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