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

+ **FAO(OS) 90/2015 & CM APPL. Nos.3287-3288/2015**

DR HANS NAGAR

..... Appellant

Through : Mr. Kishore M. Gajaria with Mr. Gaurav
Puri, Advocates with appellant in person.

versus

JOHN NAGAR & ANR

..... Respondents

Through : Mr. Ujjwal Jha and Ms. Bonny Lakshmi,
Advocates with R-1 in person.
Ms. Jyoti Dutt, Advocate for the intervener.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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24.04.2017

CM APPL. No. 22884/2015 (*Condonation of delay in filing documents*)

1. This is an application under Section 151 CPC seeking condonation of delay in filing the documents in terms of the order dated 28.04.2015.
2. For the reasons stated in the application, the delay is condoned. Application stands disposed of.

CM APPL. No. 27611/2015 (*Direction*)

1. Learned counsel for the applicant does not wish to press the present application.
2. Accordingly, the same is dismissed as not pressed.

CM APPL. No. 27612/2015 (*Extension of time for filing Certified copy of order dated 22.08.2015*)

1. This application has been filed by the applicant seeking extension of time to file a certified copy of the order dated 22.08.2015.
2. Last opportunity for two weeks is granted to the learned counsel for the appellant to file a certified copy of the order dated 02.08.2015, passed by the SDM, Mehrauli, Delhi with an advance copy to other side.
3. Application is disposed of.

CM APPL. No. 4593/2016 (*Under section 340 of Cr.PC. by the appellant*)

1. Learned counsel for the applicant states that he does not wish to press the present application.
2. The application is dismissed as not pressed.

CM APPL. No. 5157/2016 (*by intervenor for impleadment*)

1. None is present for the applicant.
2. A perusal of order sheets shows that none has been appearing on behalf of the applicant for the last several dates. In any case, the applicant was not a party in the suit proceedings, as stated by the learned counsel for the parties. Apparently, the applicant is not interested in pursuing the present application, which is accordingly dismissed.

CM APPL. No. 19146/2016 (*Exemption*)

1. Subject to the appellant filing the certified/typed/legible copies of the documents annexed with the appeal within four weeks, the application is allowed and disposed of.

FAO(OS) 90/2015 and CM Nos. 3287-3288/2015

1. The present appeal assails an order dated 4.2.2015, passed by the learned Single Judge in IA No.2530/2014, an application moved by the appellant/defendant No.1 under Section 24 of the CPC in a suit instituted by

the respondent No.1/plaintiff in which a consent decree was passed on 12.04.2012, based on a MOU dated 15.9.2011 executed by the parties.

2. By the impugned order dated 4.2.2015, the appellant's application praying *inter alia* for transferring the proceedings to the revenue authorities for purposes of demarcation/physical division of the parcel of lands, subject matter of the suit, was dismissed by the learned Single Judge with an observation that the parties had already entered into an MOU dated 15.9.2011 and the terms and conditions of the MOU were spelt out. Further, physical demarcation of the Khasra numbers, wherein the farm houses were situated had been effected. There were boundary walls in each farm house which were identifiable. In view of the fact that the lands stood divided by metes and bounds, the request of the appellant for transferring the case to the revenue authorities for purposes of demarcation/ physical division of the parcel of land, was declined.

3. The present appeal came to be filed on 21.2.2015. Subsequently, on 24.11.2016, the learned Single Judge dismissed all the pending applications in CS(OS)No.666/2008 on the ground that the suit stood disposed of on 12.4.2012. At the same time, liberty was granted to the appellant/defendant No.1 said to seek appropriate remedies in law as may be available to him. A copy of the common order dated 24.11.2016 passed in CS(OS)No.666/2008, 2019/2007 and TEST.CASE 40/200 is handed over by learned counsel for the respondent and is taken on record.

4. Mr. Gajaria, learned counsel for the appellant states that in view of the subsequent events, he does not wish to press the present appeal. He however reserves the right of his client to take all the legal pleas as may be available

to him, to oppose the execution petition (Execution Petition No.20/2013) filed by the respondents for seeking execution of the consent decree dated 12.4.2012 passed in CS (OS) No.666/2008.

5. Leave, as prayed for, is granted. The appeal is disposed of. In view of the peculiar facts and circumstances of the case, the parties are left to bear their own expenses.

HIMA KOHLI, J

SANGITA DHINGRA SEHGAL, J

APRIL 24, 2017

gr/sk