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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 97/2017 & CM No. 16717/2017**
ANIRUDH KUMAR Appellant

Through: Ms. Anita Sahani, Advocate.
versus

JAGAT NARAIN & SONS HUF & ORS Respondents

Through: Mr. Arun Vohra, Advocate for R-3,
3(a), 3 (b).

Mr. Virender Goswami, Advocate
along with Ms. Swati Goswami,
Advocate for R- 3(c).

Ms. Shalini Kapoor, Advocate for
R-4, 4(a) and 4 (b).

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **25.07.2017**

1. Appearance is entered by learned counsels for the respondent Nos. 3, 3(a), 3(b), 3(c), 4, 4(a) and 4(b). As per the office report, R-1, R- 2(a), R-2(b), R-3(e), R-3f (i), R-3f (ii), R-3f (iii), R-3(g), R-3(h) and R-3(i), remain unserved.

2. The appellant/plaintiff has filed the present appeal on a grievance that the learned Single Judge has declined to grant an *ex parte* stay order in respect of the suit property, as prayed for in I.A. No. 4777/2017 and instead, directed completion of service and pleadings in the suit and the interim application, returnable on 12.09.2017.

3. While issuing notice in the present appeal, on 02.5.2017, having regard to the assertion of the appellant/plaintiff that he has remained in

actual physical possession of the suit premises ever since the year 1975, it was directed that subject to his maintaining status quo with regard to the title, possession and construction of the suit premises, the respondents/defendants be restrained from taking any coercive steps to dispossess him therefrom till the next date of hearing i.e. till today.

4. Learned counsel for the respondents state that the appellant/plaintiff has not been in actual physical possession of the suit premises since the year 1975, as asserted by him. They contend that the appellant is trying to take advantage of the fact that the respondents who are members of different branches of Jagat Narain & Sons HUF, are in litigation with each other which includes the suit property, subject matter of a civil suit instituted by late Suraj Narain, the predecessor-in-title of the respondent nos. 4, 4(a) and 4(b).

5. Having regard to the fact that the suit as also the interim application is listed before the learned Single Judge on 12.09.2017, it is deemed appropriate to dispose of the present appeal with liberty granted to the respondents to take all the pleas as may be available to them, both on facts and in law while filing their replies to the stay application (I.A No. 4777/2017). The said application shall then be considered by the learned Single Judge and appropriate order be passed in accordance with law. The interim order dated 02.05.2017 shall continue to operate till then.

6. At this stage, learned counsel for the respondent No.3, 3(a) and 3(b) states that the appellant/plaintiff has deliberately furnished the incomplete/wrong addresses of some of the respondents, particularly, respondent nos. 2(a) and 2(b) who, to his knowledge, are not residing at the addresses given in the memo of parties. The said submission is however

denied by learned counsel for the appellant.

7. To obviate any delay in the service of the unserved respondents, including respondent nos. 2(a) and 2(b) in the suit proceedings, learned counsel for the respondents are directed to furnish their correct addresses to the counsel for the appellant who shall take immediate steps to file the process fee within one week, for effecting service on them by ordinary process, speed post and courier, returnable on the date fixed in the suit.

8. It is made clear that the appellant/plaintiff shall not seek any unnecessary adjournments before the learned Single Judge for the purpose of addressing arguments on the stay application.

9. The appeal is disposed of along with the pending application.

HIMA KOHLI, J

DEEPA SHARMA, J

JULY 25, 2017

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