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

+ **FAO 442/2016 & CM 32929/2016**

ANUSUIYA Appellant

Through: Mr. M.K. Upadhyay, Adv.

versus

TARA CHAND Respondent

Through: Mr. Sushant Mukund, Adv.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **12.04.2017**

1. The appellant has challenged the order dated 21st July, 2016 whereby the learned Trial Court has dismissed the appellant's application under Order 39 Rules 1 and 2 of the Code of Civil Procedure.
2. The appellant has instituted a suit for partition in respect of two properties bearing No.16/488, Kalyanpuri, Delhi-110091 and 17/151, Kalyanpuri, Delhi-110091 which is pending before the Trial Court. The appellant is seeking restraint against the respondent from transferring, alienating or parting with the possession of the suit properties during the pendency of the suit.
3. Learned counsel for the respondent submits that the appellant has filed a frivolous suit and is not entitled to an injunction as held by the learned Trial Court. It is further submitted that the appellant is delaying the frivolous suit and therefore, any injunction in this matter shall prejudice the respondent. Without prejudice, it is submitted that the respondent has no plan to alienate or transfer the possession of the suit properties at present.
4. Learned counsel for the appellant submits on instructions that the appellant shall neither delay the suit nor seek any unnecessary adjournment

in this matter.

5. Since the respondent has stated before this Court today that the respondent has no plan to alienate or transfer the suit properties, no injunction is warranted at this stage. However, the respondent shall remain bound by the statement made before this Court today. In the event of the respondent contemplating to alienate or transfer the possession of the suit properties, the respondent shall approach the Trial Court for seeking the permission to do so.

6. The appeal is disposed of in the above terms. The Trial Court shall ensure that the parties are not permitted to delay the trial of the suit and no unnecessary adjournment is granted to them.

7. The pending applications are disposed of.

8. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

APRIL 12, 2017

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