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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.754/2017 & CM No.25731/2017 (for stay).
RAKESH KUMAR SACHDEVA Petitioner
Through: Mr. Y.D. Nagar, Adv.
versus
RAJESH SACHDEVA Respondent
Through: Mr. Ankit Jain and Mr. Sarvesh,
Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **24.07.2017**

CM No.25730/2017 (for exemption).

1. Allowed, subject to just exceptions.
2. The CM stands disposed of.

CM(M) No.754/2017 & CM No.25731/2017 (for stay).

3. This petition under Article 227 of the Constitution of India impugns the order (dated 30th January, 2017 in Civil Suit No.9302/16 of the Court of Additional District Judge-04 (South), Saket Courts, New Delhi) of dismissal of the application of the petitioner / defendant under Section 21 read with Order XIV Rule 5 of the Code of Civil Procedure, 1908 (CPC) for treating the issue already framed as to the valuation of the suit for the relief of recovery of possession of immovable property for the purposes of court fees and jurisdiction, as a preliminary issue.
4. The learned Additional District Judge in the impugned order has reasoned that valuation is a mixed question of law and fact and the respondent / plaintiff had placed before the Court the documents in support of the valuation on the date of institution of the suit.

5. The counsel for the petitioner / defendant contends that the reasoning of the learned Additional District Judge

“that the plaintiff has filed a chart showing how he has valued the suit property, as per circle rate. The Notification relied upon by the plaintiff clearly shows that the circle rates of the immoveable properties came into force vide Notification dated 18.07.2007. Therefore, the contention of the defendant that there was no circle rate when the suit was filed, has no substance”

is factually incorrect.

6. However the counsel for the petitioner / defendant is unable to show any plea to the said effect in the memorandum of petition.

7. The argument of the counsel for the petitioner / defendant before the learned Additional District Judge as well as before this Court is of valuation being guided by circle rates and as per which the suit is undervalued and should have been before this Court.

8. The said argument is also not correct in law.

9. The Division Bench of this Court in ***Manu Narang Vs. The Lt. Governor, Government National Capital Territory of Delhi*** 226 (2016) DLT 1 and ***Amit Gupta Vs. Govt. of NCT of Delhi*** 229 (2016) DLT 385 has held that the circle rates only raise presumption and which is always rebuttable by the parties. The said judgment has been applied in ***Mukesh Kumar Gupta Vs. Rajneesh Gupta*** 2016 SCC OnLine Del 3148, ***Soni Dave Vs. Trans Asian Industries Expositions Pvt. Ltd.*** 2016 SCC OnLine Del 4282 and ***Laxmi Narayan Vs. Navneet*** 2017 SCC OnLine Del 7863 on the aspect of valuation of suit.

10. There is thus no error in the impugned order. The desire of the petitioner / defendant to have the suit tried by this Court is guided by a desire to delay, as judicial notice can be taken of the fact that the disposal of the suits before Additional District Judge is much quicker.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

JULY 24, 2017

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