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

+ CM(M) 33/2017 & CM No.1114/2017

SAIN MAHASABHA NARAINI DHAM (REGD) Petitioner

Through Mr.Rajeev Ranjan Pandey, Mr.Kamal
Jearath & Mr.Manmohan, Advocates

versus

SATBIR SINGH & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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02.03.2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 05.11.2016 by which his application filed under Section 151 CPC was dismissed.
2. The background facts are that the plaintiff/petitioner filed the present suit for permanent and mandatory injunction seeking a mandatory injunction for handing over the *Daan Patra* to the executive committee; mandatory injunction for directing the defendant/respondents to remove second lock put up on the office of the plaintiff/petitioner. Other connected reliefs were also sought.
3. Sometimes in January, 2015, the parties moved a joint application under Order 23 read with Section 151 CPC for recording of settlement between the parties and for disposal of the suit in terms of the said application. The application narrates the alleged settlement.
4. However, the trial court on 06.01.2015 after having noted the joint

statement of the parties, dismissed the suit as withdrawn.

5. The learned counsel for the petitioner submits that Sh.Chander Mohan is misusing the order of the court and is trying to project himself as the President of the petitioner and taking steps which are damaging the image of the petitioner. Hence, he submits that the petitioner/plaintiff herein moved the present application for setting aside of the order dated 06.01.2015. He has also filed a separate suit for permanent injunction and for declaration declaring the order dated 06.01.2015 as null and void. The suit is said to be pending.

6. The trial court by the impugned order dismissed the application holding that a bare reading of the said order would show that the trial court has held that the order dated 06.01.2015 merely disposed of the suit as withdrawn. Neither a judgment nor any decree vide order dated 06.01.2015 which can be termed to be binding upon the parties to the suit is passed. It was disposed of the suit as simply withdrawn on the application after recording of the statements of the parties to the suit. The trial court concluded that the application at hand filed by the petitioner is without any cause of action.

7. I have heard the learned counsel for the petitioner.

8. There is no error in the impugned order. A perusal of the order would show that the parties to the suit had filed the application under Order 23 CPC for elaborating as which rule of Order 23 CPC is applicable. The application no doubt records the terms and conditions of the alleged settlement, however, the trial court simply passed the following order:

“Both the side submit that present matter has been settled between them and therefore, plaintiffs want to withdraw the

case. Joint statement of Rishal Singh, Chander Mohan, Bharat Singh and Ved Prakash Verma recorded. The suit is disposed off as withdrawn.”

The suit was simply withdrawn under Order 23 Rule 1 CPC.

9. Accordingly, the order cannot be said to in any manner affect any right of the applicants which warrants passing of any order or moving of this court.
10. Costs imposed by the trial court are reduced to Rs.10,000/-.
11. Petition and all the pending applications are dismissed.

JAYANT NATH, J.

MARCH 02, 2017/v