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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 968/2017
MAN PAL SAINI (DECEASED) THR LRS Petitioner

Through: Mr. Arvind Mishra, Adv.

Versus

SUMAN Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **06.09.2017**

CM No.32412/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 968/2017 & CM No.32411/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order [dated 3rd July, 2017 in Civil Suit No.557/2014 of the Court of Additional District Judge-03 (ADJ), North-West District, Rohini Courts, Delhi] allowing the application of the respondent / plaintiff for amendment of the plaint (in the suit for recovery of possession of immovable property, *mesne profits*/damages for use and occupation and permanent and mandatory injunction), to value the suit for the relief of possession at the market value of the property instead of at the purchase value of the property as done in the plaint earlier filed.
4. I have enquired from the counsel for the petitioner / defendant as to what is the prejudice to the petitioner / defendant from the said order. It has further been enquired as to what are the issues framed in the suit.

5. The counsel for the petitioner / defendant states that stage for framing of issues has not reached in the suit till now and issues are still to be framed.

6. It is further contended that the petitioner / defendant in his written statement took an objection that the valuation was not correct and though in the replication filed it was reiterated that the suit had been correctly valued but subsequently at the stage of framing of issues the application for amendment was filed.

7. At this stage, it is further argued that the respondent / plaintiff in the application for amendment stated that the valuation was being done as per circle rate but the impugned order assumes the same to be the market rate.

8. There is no merit in the said contentions. If according to the petitioner / defendant, the valuation as amended also is not correct, it is open to the petitioner / defendant to take the said plea in the written statement to the amended plaint.

9. No ground for interfering in exercise of jurisdiction under Article 227 of the Constitution of India with the order impugned is made out.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 06, 2017

‘gsr’..