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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.1048/2017 & CM No.34441/2017 (for stay).
BHAGWAN SINGH Petitioner
Through: Mr. Manish Vats and Mr. Hemant
Vats, Advs.
versus
S.K JHA & ORS Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **20.09.2017**

CM No.34442/2017 (for exemption).

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

CM(M) No.1048/2017 & CM No.34441/2017 (for stay).

3. This petition under Article 227 of the Constitution of India impugns the order (dated 11th August, 2017 in Suit No.602141/16 of the Court of Civil Judge-06 (Central), Delhi) allowing the application of the respondent no.5 Bhagwan Singh under Order I Rule 10 CPC for impleadment in a suit filed by the petitioner / plaintiff against the respondents no.1 to 4 *inter alia* for cancellation of Sale Deed and ancillary injunctions.
4. The respondent no.5 who has been impleaded, claims to be the purchaser vide registered Sale Deed of the property to which the Sale Deed cancellation whereof is sought pertains.
5. The learned Civil Judge has reasoned that the petitioner / plaintiff, besides the suit from which this petition arises, has also instituted four other suits also against respondents / defendants no.1 to 4 for cancellation of four

other Sale Deeds and the respondent no.5 had been impleaded as party in those suits also.

6. The counsel for the petitioner / plaintiff on enquiry informs that there are five Sale Deeds with respect to undivided share of the same property and the facts of all the suits are identical.

7. On further enquiry as to why the suits have not been consolidated, it is stated that pursuant to an application filed by the petitioner / plaintiff therefor, four suits were consolidated but the suit from which this petition arises remains in a different Court.

8. On enquiry as to the stage of the suit in which the application aforesaid was filed the counsel for the petitioner / plaintiff states (i) that the suit from which this petition arises was dismissed on the ground of the claim therein being barred by limitation; (ii) that the petitioner / plaintiff filed RCA No.61727/2016 against the said dismissal and which appeal was allowed vide judgment dated 30th July, 2016 of the Court of Additional District Judge-13 (Central) District, Tis Hazari Courts, Delhi and the suit remanded to the Trial Court for decision afresh; (iii) that the respondents / defendants no.1 to 4 have not been contesting the suit and are *ex parte*; (iv) that the petitioner / plaintiff has already led his *ex parte* evidence in the suit before it was dismissed as aforesaid.

9. It is the contention of the counsel for the petitioner / plaintiff that though the respondent no.5 was permitted to be impleaded in the other suits but had applied for impleadment in those suits at a very early stage of the suits and has applied in the suit from which this petition arises, at a very late stage, when it is ripe for final arguments.

10. In the aforesaid facts, I am of the view that no interference with the order impugned is called for.

11. The counsel for the petitioner / plaintiff has then contended that the learned Civil Judge, after allowing impleadment of the respondent no.5, has only permitted the petitioner / plaintiff to file amended memo of parties. It is stated that the petitioner / plaintiff desires to file amended plaint.

12. For this limited extent, it is not deemed necessary to issue notice to the respondent no.5 inasmuch as the respondent no.5 would have an opportunity to file written statement to the plaint after amended plaint has been filed by the petitioner / plaintiff.

13. The petition is disposed of with permission to the petitioner / plaintiff to, within one week of today, file amended plaint.

No costs.

Dasti under signatures of Court Master.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 20, 2017

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