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

+ RFA 68/2013 and C.M. No.37853/2018 (for discharge)

MANJIT SINGH

..... Appellant

Through: Mr. Sandeep Singh, Advocate (M.
No.9810699694).

versus

S. BHUPINDER SINGH & ORS.

..... Respondents

Through: Mr. Ashim Vachher, Advocate with
Mr. Vaibhav Dabas, Advocate for
respondent nos.1 and 2 (M.
No.9811023217).
Mr. Roshan Lal Goel, Advocate with
Mr. Cherub Goel, Advocate for
respondent No.4 (M.
No.9654169406).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **25.10.2018**

1. Earlier counsel for the appellant Mr. R.K.Sachdeva, Advocate is discharged as a new counsel Mr. A.K.Pandey, Advocate appears.

2. Since the impugned judgment dated 7.12.2012 only rejects the plaint under Order 7 Rule 11 of Code of Civil Procedure, 1908 (CPC), therefore, counsel for the appellant/plaintiff rightly argues that the appellant/plaintiff can file a suit by pleading a proper cause of action of

existence of an HUF, and such course is permissible under Order 7 Rule 13 CPC.

3. Accordingly, while disposing of this appeal as not pressed it is clarified that since the impugned judgment rejects the plaint under Order 7 Rule 11 CPC, the appellant/plaintiff will have complete right in view of Order 7 Rule 13 CPC to file a suit provided a complete cause of action exists as per the plaint to be filed in the new suit of existence of an HUF for the appellant/plaintiff to claim a right in the suit property as an HUF property.

4. It is clarified that this Court has not observed one way or the other on merits, for or against either of the parties, and all aspects of facts and law, which will arise in the fresh suit which is proposed to be filed by the appellant/plaintiff, will be decided by the concerned court before which the new suit comes up.

5. Appeal is accordingly disposed of in terms of aforesaid observations.

VALMIKI J. MEHTA, J

OCTOBER 25, 2018

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