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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 321/2017, CM No.11337/2017(stay)

HARVINDER SINGH

..... Appellant

Through: Mr. Sushil Kumar Singh, Adv.
(Mobile No.9654244955).

versus

MANMOHAN SINGH & ORS

..... Respondents

Through: Mr. Satish Bajaj, Adv. for R-1.
(Mobile No.9818266779).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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30.10.2018

1. At the last date of hearing being 19.7.2018, the following order was passed:

“1. Respondent nos.2 and 4 are deliberately not being served by the appellant, and therefore, as a last opportunity and subject to payment of costs of Rs.10,000/- to the counsel for the respondent no.1, appellant will now file process fee within one week and at his own responsibility ensure service of the respondent nos.2 and 4 on the next date of hearing failing which appropriate orders will be passed. Dasti service in addition.

2. Trial court record be positively requisitioned for the next date.

3. Re-notify on 30th October, 2018.”

2. In spite of the categorical order dated 19.7.2018 which records

that deliberately the appellant is not serving respondent nos. 2 and 4, and as a last opportunity subject to payment of costs of Rs.10,000/- to the counsel for respondent no.1, notices were ordered to be issued for today, but once again process fee has not been filed. Even costs have not been received by respondent no.1.

3. An earlier order passed by learned Single Judge of this Court dated 19.3.2018 says that the appellant being in possession of entire property deliberately delaying the disposal of the appeal and this order dated 19.3.2018 reads as under:-

“Despite repeated opportunities, Respondents No.2 and 4 are not being served. This is a dispute between real brothers. The Trial Court has vide order dated 12th March, 2017 granted a preliminary decree of partition of H.N.02251/1A, Ground Floor and First Floor located at New Ranjit Nagar, New Delhi-110008. Admittedly, the Appellant is in possession of the entire property which has now been held to be a property purchased from ancestral funds.

Parties are directed to be present on the next date of hearing.

Relist on 16th May, 2018.”

4. Since the appellant is not found to be pursuing his appeal, this appeal is dismissed for non-prosecution.

5. Let no application for restoration/recall of this order be

entertained unless costs of Rs.25,000/- are first deposited with the website www.bharatkeveer.gov.in and a total sum of Rs.20,000/- is paid to the counsel for respondent no.1 including the costs of Rs.10,000/- ordered on 19.10.2018.

VALMIKI J. MEHTA, J

OCTOBER 30, 2018
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