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

+ CM(M) 434/2018 and CM APPL.14658-14661/2018

NEERAJ JAIN

..... Petitioner

Through: Mr. Anup Bhambani, Senior Advocate with
Mr. N. Mahabir, & Mr. P.C. Arya, Advs.

versus

ASHSWANI KUAMR & ANR

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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16.04.2018

The respondents have not yet been served before the trial Court in the civil suit (TM No.66/2018), on which the additional district Judge, by order dated 12.04.2018 issued summons on the suit and notice on the application under Order XXXIX Rules 1 & 2 CPC for 24th April, 2018.

The grievance of the petitioner essentially is that his prayer for *ex parte ad interim* injunction was not considered nor any reasons set out as to why it was not being considered, nor any note taken of another application for local inspection under Order XXVI Rule 9 CPC, on which even notice has not been issued.

The above deficiencies are vivid and palpable in the order dated 12.04.2018. In this view, the proper course would be that the trial court is called upon to consider the prayer of the petitioner for *ex parte* order under Order XXXIX Rules 1 & 2 CPC and also appropriate order on the application under Order XXVI Rule 9 CPC, the denial whereof, according to the submissions, might frustrate the suit.

The trial Judge is, thus, directed to take up the case tomorrow, *i.e.* on 17th April, 2018 for hearing the petitioner (plaintiff) on above aspects and pass appropriate orders in accordance with law.

With these observations, the petition and the applications filed therewith stand disposed of.

Dasti under the signature of Court Master.

APRIL 16, 2018

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R.K.GAUBA, J.