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

+ CM(M) 501/2018 and CM APPL.17615-17616/2018

KULDEEP SINGH BEDI Petitioner

Through: Mr. J.P. Sengh, Senior Advocate with
Mr. Vidit Gupta, Ms. Manisha Mehta &
Ms. Vaishali Tanwar, Adv.s

versus

VIJAY SHARMA & ORS. Respondents

Through: Ms. Sonia A. Menon, Advocate for R-3-R-5.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **01.05.2018**

The civil suit in which the impugned order dated 01.03.2018 has been passed by the additional district judge (ADJ) – improperly describing the jurisdiction exercised by her to be that of a motor accident claims tribunal – was instituted in the year 2004 on the original side of this court. The petitioner is the seventh defendant in the said suit, he claiming to be a *bona fide* purchaser having purchased through his firm/company two of the subject properties described as Plot No.10, HSIDC Phase-I, Kundli, Sonapat, Haryana and Plot No.82, HSIDC Phase-I, Kundli, Sonapat, Haryana, without notice of family settlement dated 18.03.2001. The eighth respondent is the sixth defendant in the said suit, the other parties including the first and second respondents herein (collectively the plaintiffs) being members of the family to which the said settlement dated 18.03.2001 relates.

Having regard to the issues that were settled by proceedings recorded on 25.03.2010, the prime dispute is between the members of the family, the petitioner, as stated above, being involved on account of purchase of the two above mentioned properties which are the subject-matter of the said family dispute. An *ad interim* injunction has been operating in the suit since 2004. The petitioner had sought vacation of the said order by moving an application under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 (CPC) (IA No.11254/2006) which stood disposed of by a consent order on 25.03.2010. Subsequently, on account of change of the pecuniary jurisdiction, the case has been made over for trial and adjudication to the district court. After eight years of the said earlier order dated 25.03.2010, the petitioner moved another application essentially under Order XXXIX Rule 4 CPC (though not so labelled) seeking vacation of the *ad interim* order, *inter alia*, on the plea that because of the collusion between the other parties, the proceedings in the case are not making any progress and rights of the petitioner are consequently adversely affected, the order leading to undue hardship.

The prime grouse brought through the petition at hand is that the trial Judge has passed a cryptic order dismissing the aforementioned application without considering the contentions raised. This submission is found *prima facie* to be correct as the copy of the order dated 01.03.2018 is virtually non-speaking on the merits of the contentions which were urged, they being relatable to the events which are stated to have happened after the earlier order dated 25.03.2010.

At this stage, the counsel for the petitioner submits that he may be

allowed to withdraw the present petition and the applications filed therewith and instead be given liberty to approach the trial court by review application so that an appropriate reasoned order in accordance with law may be requested to be passed, bearing in mind the afore mentioned observations of this court.

The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed for granted.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

MAY 01, 2018

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