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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 466/2018**

JUGMANDER DASS JAIN

..... Appellant

Through: Mr. Vijay Kumar, Mr. K.S.Kashyap
and Mr. Thomas Oommen, Advocates
(9811197419)

versus

NARENDER KUMAR

..... Respondent

Through: Mr. Rajesh Malhotra, Advocate
(9810194135)

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **05.10.2018**

1. After arguments, this appeal is allowed with the consent order by setting aside the impugned judgment dated 23.4.2018 dismissing the suit as not maintainable as being barred by law, without the same being an expression on merits of the cases of respective parties, and all issues including the issue decided in the impugned judgment will be decided at the stage of final arguments in accordance with law after parties lead evidence.
2. It is clarified that holding that the suit can be filed will not be tantamount to holding that the appellant/plaintiff is entitled to any interim order, and issue of grant or denial of interim orders will be an issue which

will be decided by the trial court in accordance with law on an application if filed under Order 39 Rules 1 and 2 CPC. During the course of decision of such an application, one of the defences which will be available to the respondent/defendant will be the defence that the suit will not operate for the doctrine of *lis pendens* under Section 52 of the Transfer of Property Act, 1882 in view of the judgment of the Supreme Court in the case of ***Vinod Seth vs. Devinder Bajaj and Anr. (2010) 8 SCC 1***

3. Accordingly, the appeal is allowed and disposed of, but subject to the aforesaid observations.

4. Parties to appear before the District and Sessions Judge (Central) Tis Hazari Courts, Delhi on 11th November, 2018 and the District and Sessions Judge will now mark the suit for disposal to a competent court and the observations made in the present order.

VALMIKI J. MEHTA, J

OCTOBER 05, 2018
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