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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 304/2018, CM No.25567/18 & CM No.25568/18**

ZILE SINGH Appellant
Through: Mr. Satish Kumar Verma, Adv.

versus

SAROJ & ORS. Respondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
04.07.2018

CM No.25568/18 (Exemption)

Exemption allowed, subject to just exceptions.

FAO 304/2018 & CM No.25567/18 (Stay)

The appellant assails the impugned order dated 27.03.2018 of the learned trial Court of the ADJ-06/SE/Saket Court/New Delhi in CS No.8889/2017 vide which the application u/o 39 Rule 1 of the CPC of the plaintiffs to the said suit arrayed as the respondent nos. 1 to 5 to the present appeal was allowed to the extent that the defendant no.1 being the present petitioner and his representatives were restrained from creating any third party interest in respect of the suit property till final disposal of the said suit. Vide the said impugned order, issues have been framed in the matter and the matter was fixed for plaintiff's evidence for 03.07.2018 (i.e. yesterday) and it is submitted by the learned counsel for the appellant that the evidence is

in the process of being recorded and copies of statements dated 03.07.2018 of PW-4 Md. Kamil, Junior IT Associate of the BSES Rajdhani Power Limited, District Sarita Vihar, New Delhi and PW-5 Shri Nawal Kishor working in the Assessment and Collection Department, SDMC, Central Zone, Sanwal Nagar, New Delhi as Junior Secretariat Assistant have been submitted on record on behalf of the appellant in support of the contention of the appellant that the said witnesses have testified in support of the claim of the appellant.

It is essential to observe that it has been stated expressly in the impugned order that neither side has put forth any specific document of ownership and that there was a dispute as to whom the property in question i.e. H.No.517, Atma Ramwali Gali, Badarpur, New Delhi-44 belongs to and thus the injunction was granted against creating any third party interest to **avoid any irreparable loss and also to avoid uncalled multiple litigation.**

On behalf of the appellant it has been submitted that the appellant has got the electricity bills in his name qua the suit property and the same are placed on the record and it is also being submitted that the testimony of PW-4 recorded on 03.07.2018 i.e. yesterday is also to the effect that as on the energisation date 06.07.2007, the electricity connection CA No.102162908 stands registered in the name of Zile Singh, s/o Shri Baljit Singh i.e. the appellant herein at H.No.517, Ground Floor, Village Badarpur, New Delhi at the suit property.

Without any observation on the merits or demerits of the lis pending before the trial Court of the ADJ-06, South-East in CSDJ 651/16 with new no. CS No.8889/16, it is essential to observe that the witness PW-4 Md.

Kamil has categorically stated that the BSES Rajdhani Power Limited, whom he represents had taken over the electricity supply system from the DESU in the year 2003 *and he had no idea of the prior record.*

Taking the said aspect into account and the observation of the learned trial Court in the impugned order that it would be appropriate to grant the relief prayed for by the plaintiff of the said suit *inter alia to avoid uncalled for multiple litigations* and as also the lis is pending, it is not considered appropriate to pre-judge the suit despite the statement dated 03.07.2018 of PW-5 Nawal Kishor, Junior Secretariat Assistant, Assessment and Collection Department, SDMC, Central Zone, Sanwal Nagar to the effect that the property in question i.e. H.No.517, village Badarpur, New Delhi-44 has not been assessed with the name of Shri Baljit Singh, s/o Shri Prabhu Singh inasmuch as the said statement of PW-5 **also does not state to the effect that** the property is assessed in the name of Shri Zile Singh, s/o Shri Baljit Singh inasmuch he states that there is no property tax record of H.No.517, village Badarpur, New Delhi-44 in the name of Shri Baljit Singh in Assessment and Collection Department before 2004.

Taking the said aspect into account, the appeal is dismissed.

Nothing stated hereinabove shall amount to an expression on the merits or demerits of the case.

Copy of this judgment be sent to the learned trial Court.

ANU MALHOTRA, J

JULY 04, 2018

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