

\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 427/2017 and CM 14671/2017
HEMANT JAIN Petitioner
Through: Mr. Rakesh C. Agrawal, Advocate

versus

RAJIV SURI & ANR Respondents
Through

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **21.02.2018**

The main petition was filed to challenge the correctness and legality of the order dated 15.03.2017 passed by the District & Sessions Judge, Shahdara District on the file of civil suit (CS 474/2016) of the petitioner (plaintiff) whereby his application under Order XXXIX Rules 1 and 2 of the CPC was dismissed with costs of Rs.50,000/-. The said application had been filed by the petitioner in the proceedings arising out of civil suit whereby the prayer is made for declaration that the plaintiff is the owner of the copyright of motion picture “*Parwana*” with star cast Amitabh Bachhan, Navin Nischal, Shatrughana Sinha, Yogitabali and others, he also claiming relief of permanent injunction against the respondents (defendants) from creating third party right in respect of the said motion picture. The prayer for *ad interim* injunction by application under Order XXXIX Rules 1 and 2 CPC was for similar restraint during the pendency of the suit.

The respondent had appeared and had accepted notice through counsel on 19.04.2017. At the hearing, there is no appearance on behalf of the respondents.

The counsel for the petitioner, on instructions, submits that he does not seek challenge to the merits of the decision whereby his application under Order XXXIX Rules 1 and 2 CPC has been dismissed, he restricting his prayer to waiver or reduction of the costs, his further grievance being that the trial judge has made certain observations vis-a-vis the merits of the case which should not come in the way at the time of adjudication of the main suit.

In the given facts and circumstances, the costs are reduced to Rs.5,000/-. It is clarified that the observations made by the trial court in the impugned order will not be treated as final expression of opinion on merits on the case of the petitioner.

The petition and the application filed therewith are disposed of with these observations.

R.K.GAUBA, J

FEBRUARY 21, 2018

Yg

CM(M) 427/2017

page 2 of 2