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

\+ **FAO(OS) 35/2018 with CM Nos.8592-8593/2018 & 31020-31021/2018**

\+ **FAO(OS) 118/2018 with CM Nos.28759 & 28761/2018**

AJIT SINGH MAKER ..... Appellant

Through: Mr.Sudarshan Rajan & Mr.Arjun Gadhoke, Advocates

versus

MANINDER SINGH MAKER & ORS ..... Respondents

Through: Mr.Abhimanyu Bhandari, Mr.Prashant Mehta, Ms.Nattasha Garg, Mr.Arav Pandit & Mr.Alok Tripathi, Advocates

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **27.11.2018**

1. These two appeals are preferred in two pending suits [CS(OS) 3121/2011 & CS(OS) 558/2014]. The appellant's grievance is that the Single Judge has, in more ways than one, secured the subject matter of the trust property. The suits were premised broadly on the complaint that one of the trustees of Sujan Mohinder Charitable Trust sold the property that belonged to the Trust to his wife, another trustee. It was also alleged that the sale consideration was grossly inadequate and constituted a fraction of the market value. At different interlocutory stages of the suit, the present

appellant had represented that besides the securing of property through an interim order which the Single Judge gave, the amount would be available for appropriation on suitable orders by the Court. These were recorded. Significantly, on 05.08.2017, in fact, the Single Judge apart from noticing the contention, had stated that the appellant would be foreclosed from urging that the money had been utilized in the activities of the Trust, as a ground to resist any interim order. The order of 21.04.2017, in the course of the proceedings, also reiterated the same directions while passing further orders.

2. In these circumstances, it is sought to be urged that having regard to the order of 26.09.2017, made in the course of the suit, it was not open to the Single Judge to have directed the appellant to deposit the amount of ₹19.2 crores, the ostensible consideration for sale. It was contended on behalf of the appellant that the order of 26.09.2017 secures the interest of all the parties, and that besides, the total consideration is not as of now available, since, it was donated to other trusts for charitable activities/purposes. Learned counsel submitted that the donations were made as far back as in 2011.

3. The order of the Single Judge in both the suits which the appellant complains of as onerous, directs him to deposit ₹19.2 crores, which was the admitted consideration for the sale of the trust property. The appellant could should have disclosed at the earliest stage in the proceedings that such amounts had been either appropriated or were not available – he chose to remain silent, perhaps intentionally so. This is reflected in the three orders mentioned by this Court previously.

4. In these circumstances, this attempt to secure an alteration of the status quo by stating that the interests of all the parties are adequately protected by restraining the transfree from selling the assets, in the opinion of the Court was not justified. The Single Judge in this conspectus of circumstances, justly directed the deposit of ₹19.2 crores in the Court.

5. In view of these facts, the Court is of the opinion that no ground is made out to interfere with the impugned order.

6. The appeals are accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

NOVEMBER 27, 2018
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