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

+ RFA 423/2017

DELHI STATE INDUSTRIAL AND INFRASTRUCTURE
DEVELOPMENT CORPORATION LTD Appellant

Through: Mr. Moni Cinmoy, Advocate.

versus

SURJIT SINGH & ORS

..... Respondents

Through: Mr. Raman Kapur, Senior Advocate
with Mr. Hemant Gupta, Advocate for
respondent Nos.1 to 6.

Ms. Maninder Acharya, Senior
Advocate with Mr. Shoaib Haider,
Advocate, Mr. Sahil Sood, Advocate,
Mr. Harshul Choudhary, Advocate
and Mr. Viplov Acharya, Advocate
for respondent No.7.

Mr. Jitender Jain, Advocate with Mr.
Pranay Jain, Advocate for respondent
No.8.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **16.02.2018**

1. This RFA bearing no.423/2017 impugns the judgment of the Trial Court dated 13.1.2017 in case no.578590/2016 titled as ***Surjit Singh and Ors. Vs. Delhi State Industrial Development Corporation & Others*** passed by the court of Sh. Prashant Kumar, ADJ-04(North West), Rohini District Courts, Delhi. The self-same judgment dated 13.1.2017 was

subject matter of challenge by Ms. Shalini Arora in RFA No.931/2017, who was the defendant no.2 in the suit. The present appellant was respondent no.7 in said RFA No.931/2017 and supported the appellant in RFA No.931/2017 for setting aside the judgment of the trial court dated 13.1.2017. By the detailed judgment dated 8.12.2017 the appeal RFA No.931/2017 was dismissed and directions, so far as the present appellant/DSI IDC is concerned, were issued as per discussion, reasoning and conclusion in para 11 of the judgment dated 8.12.2017.

2. Once the validity of the self-same judgment dated 13.1.2017, and which is also the subject matter of the present appeal, has been examined between the same parties and a judgment passed on 8.12.2017 in RFA No.931/2017, squarely Section 11 CPC applies. Issues between the parties therefore having been decided in terms of the judgment dated 8.12.2017 in RFA No.931/2017, and therefore, in view of Section 11, and which operates as a bar to again decide on merits the same issues, this RFA no.423/2017 challenging the self-same judgment dated 13.1.2017 is to be dismissed as barred by res judicata.

3. Accordingly, this appeal is dismissed by applying the provision of Section 11 CPC. Parties are left to bear their own costs.

C.M. Nos.15691/2017 (stay), 44909/2017 (under Order 41 Rule 25 CPC by respondent no.7), 44915/2017 (under Section 151 CPC by respondent no.7), 44596/2017 (under Order 41 Rule 27 CPC by respondent no.7), 1170/2018 (under Section 151 CPC by respondent nos.1 to 6), 1686/2018 (exemption) & Crl. M.A. No.869/2018 (under Section 340 Cr.P.C. by respondent No.7)

4. Since the RFA is dismissed, all pending applications will also stand dismissed.

5. I may note that in an appeal filed by DSIIDC any interim application can only be filed by the appellant DSIIDC and respondent no.7 in this appeal cannot file an application under Section 340 Cr.P.C and which is a Crl. M.A. no.869/2018. This application being Crl. M.A. No.869/2018 is misconceived and is therefore dismissed.

6. The application filed by respondent no.7 under Order 41 Rule 27 CPC is also hopelessly misconceived because this Court fails to understand as to how a respondent in an appeal can file an application under Order 41 Rule 27 CPC because it is the appellant who has filed the appeal, and this application under Order 41(27) CPC is not maintainable all the more so because the appeal filed by the respondent no.7/applicant being Ms. Shalini Arora being RFA No.931/2017 already stands dismissed.

VALMIKI J. MEHTA, J

FEBRUARY 16, 2018

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