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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 416/2017, IA No.10193/2017 (u/O XXXIX R-1&2 CPC), IA No.10194/2017 (for exemption) and IA No.10195/2017 (u/S 80(2) r/w 151 CPC).

SAVITRI DEVI & ANOTHER Plaintiffs
Through: Mr. J.K. Sharma, Mr. Siddharth
Pandit and Mr. Atul Bansal, Advs.

versus

BHAGWAN SINGH & OTHERS Defendants
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **11.05.2018**

1. The two plaintiffs have instituted this suit for partition of 1/8th share of Maha Singh, being the father-in-law of the plaintiff no.1 and paternal grandfather of the plaintiff no.2, in agricultural land in Village Bakkarwala, Delhi.
2. The suit came up first before this Court on 6th September, 2017 and has been adjourned from time to time and the counsel for the plaintiffs has been unable to satisfy the Court for suit to be admitted and summons thereof to be issued.
3. Though the earlier orders do not record any reason but the counsel for the plaintiffs states that the Court had enquired from the counsel as to how the suit was not barred by Order II Rule 2 of the Code of Civil Procedure, 1908 (CPC) in view of an earlier suit for declaration and injunction with respect to the same land filed by the plaintiffs and which suit was dismissed in default.

4. The plaintiffs have now filed copy of the plaint in the earlier suit and which shows the claim of the plaintiffs therein against the defendants no.1 to 4 to be of declaration, that the Will claimed by the defendants no.1 to 4 of Maha Singh in their favour and the mutation of the land in the records of the Revenue Authorities from the name of Maha Singh to the name of defendants no.1 to 4 on the basis of the said Will, as illegal, null and void and not binding on the plaintiffs and for declaration of the plaintiffs' 1/5th share in the property and for injunction restraining the defendants no.1 to 4 from dealing with the property.

5. I have enquired from the counsel for the plaintiffs as to how can the mutation entries done by the Revenue Authorities be challenged in this Court and whether not the remedy of the plaintiffs against the said mutation entries is before the Revenue Authorities/Revenue Courts only.

6. Attention of the counsel for the plaintiffs has also been drawn to Section 185 of the Delhi Land Reforms Act, 1954 which bars the jurisdiction of the Civil Court with respect to matters mentioned in Schedule-I and Entry 11 wherein is of a suit for partition of a holding and which is stated to lie before the Deputy Commissioner.

7. The counsel for the plaintiffs is however unable to answer, whether the agricultural land of which partition is sought in this suit, is governed by the Delhi Land Reforms Act or not.

8. The counsel for the plaintiffs withdraws this suit with liberty to file before appropriate Authority / Court.
9. Dismissed as withdrawn with liberty as aforesaid.
No costs.

RAJIV SAHAI ENDLAW, J

MAY 11, 2018
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