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

+ CM(M) 1306/2017

PARMAL SINGH & ORS

..... Petitioners

Through: Mr. Sunil Chauhan, Adv. for P-1 to 8.
Mr. Pranay Trivedi, Adv. for P-1 to 8.
Mr. Rajshekhar Rao & Mr. Sameer
Dawar, Advs. for P-9.

Versus

ANOOP SINGH & ORS

..... Respondents

Through: Mr. Puneet Bajaj, Adv. for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.09.2018

1. This order is in continuation of the earlier order dated 20th November, 2017.
2. The counsels have been further heard on the aspect of maintainability of the suit from which this petition arises before the Suit Court. However, it is not felt appropriate to make any further observations, as if the aspect of maintainability is gone into in this proceeding, the same will deprive the aggrieved party from the remedies against such a finding as would otherwise be available in law if the aspect of maintainability of the suit was to be decided in the first instance by the Suit Court. It is thus felt that the Suit Court, before proceeding further with the matter, goes into the aspect of maintainability of the suit vis-a-vis the bar contained in Section 185 of the Delhi Land Reforms Act, 1954 (Reforms Act) and / or bar contained in the Delhi Land Revenue Act, 1954 (Revenue Act).

3. The counsel for the petitioner no.9 / defendant however draws attention of this Court to the order dated 10th May, 2013 in the suit holding that the issue as to the maintainability of the suit vis-à-vis Section 185 of the Reforms Act cannot be decided without evidence. The counsel for the petitioner no.9 / defendant admits that the petitioners/defendants did not take any recourse against the said order which has attained finality.

4. It is felt that if the suit, from which this petition arises, was to be not maintainable before the Civil Court, the same should not continue to occupy the judicial time and the said aspect be gone into afresh by the Suit Court hearing the counsels.

5. This petition thus, with consent of counsels, is disposed of with the following directions:

- (i) The Suit Court is requested to, after hearing the counsels afresh and without being guided by the order dated 10th May, 2013 in the suit, decide whether the suit as framed is barred by Section 185 of the Reforms Act and Sections 61 and 64 of the Revenue Act or any other law.
- (ii) Since the suit is found to be pending since the year 2006, the Suit Court is requested to decide the said question as expeditiously as possible and latest before 31st October, 2018.
- (iii) The Suit Court, in the decision aforesaid will also be unaffected by the observations, if any in the order dated 20th November, 2017 or in this order or by the course of action followed in this order.

- (iv) Whichsoever party is aggrieved by the decision aforesaid of the Suit Court, will have remedies in accordance with law.
- (v) If the suit is held to be maintainable and not barred as aforesaid, the petitioners shall have liberty to challenge the order impugned in this petition including by filing a petition under Article 227 of the Constitution of India and taking all grounds as taken in this petition.
- (vi) It is also clarified that for considering the aspect of maintainability, the amended plaint, impugning which this petition was filed, shall be considered.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 20, 2018

‘gsr’..