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

+ C.R.P. 98/2019 and CM Nos. 18787-88/2019

RAM JEEWAN & ORS

..... Petitioners

Through: Mr.Swastik Singh and Mr.Atul Singh,
Advs

versus

VED PAL & ORS

..... Respondents

Through: Nemo

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

% **23.04.2019**

C.R.P. No.980/2019

1. The present Civil Revision Petition has been filed against the impugned order dated 06.03.2019 passed by the court of learned Additional District Judge, Patiala House Courts, Delhi, in CS No. 308 of 2018 titled as '*Vedpal & Anr. Vs. Ram Jeewan & Ors.*' whereby the application of the petitioner under Order 7 Rule 11 was disposed of by framing a preliminary issue with regard to the maintainability of the suit.
2. The learned counsel for the petitioner contended that the learned Additional District Judge has fallen in error in disposing of his application under Order 7 Rule 11. The documents filed by the respondent (plaintiff in the suit) reveals that the impugned property is an agriculture land and a suit for the same is barred under Section 185 of Delhi Land Reforms Act.

3. He further contended that while disposing of his application under Order 7 Rule 11, the learned Additional District Judge has framed a preliminary issue with regard to maintainability of present suit and fixed the suit for hearing on 07.08.2019. Learned counsel vehemently argued that the trial court should decide the preliminary issue first before adjudicating any other application in the suit.
4. Heard.
5. Section 185 of the Delhi Reforms Act reads as:

185. Cognizance of suits, etc, under this Act. -

(1) Except as provided by or under this Act no court other than a court mentioned in column 7 of Schedule I shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, take cognizance of any suit, application, or proceedings mentioned in column 3 thereof

(2) Except as hereinafter provided no appeal shall lie from an order passed under any of the proceedings mentioned in column 3 of the Schedule aforesaid

(3) An appeal shall lie from the final order passed by a court mentioned in column 3 to the court or authority mentioned in column 8 thereof.

(4) A second appeal shall lie from the final order passed in an appeal under sub section (3) to the authority, if any, mentioned against it in column 9 of the Schedule aforesaid.
6. Since the maintainability of the present suit is in question in terms of

Section 185 DLR Act, I deem it appropriate to dispose of the present petition with direction to the learned Additional District Judge to firstly decide the preliminary issue framed on 06.03.2019 before deciding any other application in the suit. Parties are directed to be present before the learned Additional District Judge on 15.05.2019 who shall fix date for deciding the preliminary issue expeditiously.

7. Accordingly, the petition stands disposed of.

CM No. 18787/2019 (for stay)

8. In view of the order passed in the main petition, the present application for stay is rendered infructuous.

Application stands disposed of.

SANGITA DHINGRA SEHGAL, J

APRIL 23, 2019

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