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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 967/2017 & CM APPL. 32361/2017**

ROHIT MAHAJAN

..... Petitioner

Through: Mr. S.C. Singhal, Advocate.

versus

RAJIV BHARDWAJ

..... Respondent

Through: Mr. S.P. Jha, Advocate.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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07.03.2019

Vide the present petition, the petitioner assails the impugned order dated 14.07.2017 of the learned Trial Court of the Court of the ADJ-03, Dwarka in CS No.17583/16, vide which an application under Section 10 of the CPC filed by the petitioner herein arrayed as the defendant to the said suit seeking stay of the proceedings of CS No.17583/16 till adjudication of the suit bearing no.198/2016 titled as “*Sh. Kaptan Singh Rathie & Anr. Vs. Sh. Rajiv Bhardwaj*” in which the petitioner herein is arrayed as the plaintiff no.2 is adjudicated, was declined.

It has been contended on behalf of the petitioner that whereas the suit out of which the impugned order arises i.e. CS No.17583/16 is one for possession and partition of the suit property i.e. B-1/308,

Janak Puri, New Delhi on the basis of the sale deed stated to have been executed with the defendant, the previously reinstituted suit as filed by the petitioner as plaintiff no.2 thereof was one seeking declaration, mandatory and prohibitory injunction in relation to the same property and in relation to the same sale deed vide which the property was stated to have been purchased by the plaintiff of CS no.17583/16 i.e. the respondent herein.

It is indicated through the impugned order that the sale deed which is the subject matter of both the suits is the same, that the property which was stated to have been purchased by the plaintiff through the sale deed is also same, that the plaintiff is also one of the defendants in the same and the present suit i.e. CS No.17583/16 had been filed after the filing of the said suit but the reliefs sought in both the suits are different and that as the reliefs sought in both the suits were not identical and not similar that there could be no stay of the proceedings of the suit that had been filed by the plaintiff of CS No.17583/16 arrayed as the respondent to the present petition as the said suit was for possession and partition of the property on the basis of the sale deed stated to have been executed with the petitioner herein, whereas the previously instituted suit as filed by the plaintiff thereof i.e. the respondent herein was for declaration, mandatory and prohibitory injunction. Apparently, there is no infirmity in the impugned order.

However, in the interest of justice, as also indicated vide the proceedings dated 05.09.2017 in the present petition, wherein it had

been observed vide para 5 thereof to the effect:-

“5. It appears that the two suits should be consolidated for trial.”,

it is considered appropriate that both the suits are tried by a single Court, though no consolidation has been ordered hereby. In view thereof, the proceedings of CS No.17583/16 which are presently pending in the Court of the learned ADJ-03, Dwarka Courts are assigned to the Court hearing the suit no.198/16 pending before the ADJ, West, THC, Delhi. The records of CS No.17583/16 pending before the learned ADJ-03, Dwarka Courts are thus directed to be placed before the learned ADJ concerned of the West District Courts, THC, Delhi seized of CS No.198/16 on the date 02.04.2019.

Copy of this order be sent to the District Judges of both Districts.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

MARCH 07, 2019/NC

