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

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Judgment delivered on: 09.09.2020

+ CM(M) 447/2020

JAI BHAGWAN @ BILLU

.... Petitioner

versus

MANGE RAM & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Swastik Singh, Advocate.

For the Respondent: Mr. S.R. Parashar, Advocate for respondent No.1.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.22051/2020 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 447/2020 & CM APPL.22050/2020 (exemption)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 24.08.2020, whereby, the application of the petitioner seeking a restraint on the respondents from raising any construction was dismissed.

3. Subject property being property in Khasra No.316 situated in village Jharoda Kalan was owned by Smt. Shanti Devi, the mother of the petitioner as well as respondent No.1.

4. Respondent No.1 filed the subject suit for declaration, partition and permanent injunction. In the said suit, the petitioner being the defendant No.1 claimed title to the property based on an alleged registered Will left behind by Smt. Shanti Devi in his favour.

5. Petitioner filed an application under Section 151 CPC, which was treated as an application under Order 39 Rules 1 and 2 CPC seeking a restraint on the respondent No.1 from raising any construction on the subject property.

6. The Trial Court by the impugned order held that petitioner had failed to establish that the petitioner was in possession of the subject property and as such found no *prima facie* case in favour of the petitioner.

7. Learned counsel appearing for the respondent No.1 submits that the construction today is already complete. He further undertakes that respondent No.1 shall not create any third party rights in the subject property and/or transfer possession of the property or any part thereof to any third party pending the suit.

8. In view of the above, this petition is disposed of with a direction that any construction raised by respondent No. 1 on the subject property would be subject to the final outcome of the Suit filed

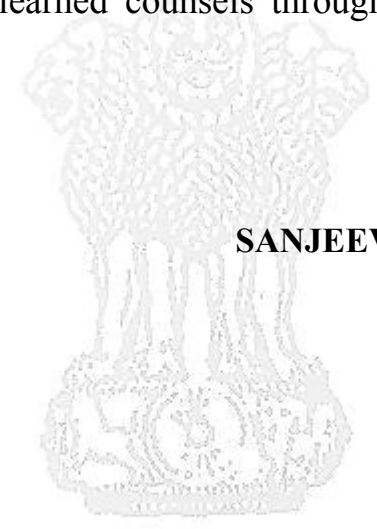
by the respondent No.1 and no special equities shall be claimed by the respondents with regard to the construction raised. Parties are also restrained from creating any third party rights in the subject property and respondent shall not transfer, alienate or part with possession of the property or any part thereof till the pendency of the suit.

9. Petition is, accordingly, disposed of in the above terms.

10. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SEPTEMBER 09, 2020
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SANJEEV SACHDEVA, J



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