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

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Judgment delivered on: 06.02.2020

+ FAO 359/2018

SUMEET SINGAL

..... Appellant

versus

SURENDER KUMAR SINGHAL & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Ms. Manasi Bhushan, Advocate for Anurag Kumar
Agarwal, Advocate

For the Respondent:

Dr. Amit George, Mr. Rishabh Dheer, Mr. Amol
Acharya, Mr. Rayadurgam Bharat and Mr. Piyo
Harolo, Advocates

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 07.05.2018 whereby ad-interim stay granted to the appellant by order dated 22.08.2017 was vacated on the ground that he had not filed a no objection certificate of the co-owner of the subject property.

2. Appellant had filed the Suit for Possession, declaration and permanent injunction, inter-alia, seeking possession against the respondents. As per the appellant, appellant was the co-owner of the

subject property along with the son of the respondent no. 1.

3. By order dated 22.08.2017, defendant no. 4 in the suit i.e. Mohd. Danish was restrained from creating any third-party interest in the suit property. Subsequently, appellant was directed to obtain a no objection certificate from the co-owner i.e. son of respondent no. 1 and since appellant failed to obtain the no objection certificate, ad-interim injunction was vacated by the impugned order dated 07.05.2018.

4. It is informed that subsequently, on an application filed under Order 1 Rule 10 CPC, son of respondent no. 1 has been impleaded as a party to the suit. It is also informed that the application under Order 39 Rules 1 and 2 CPC filed by the plaintiff is still pending.

5. By order dated 10.09.2018, this Court had stayed the operation of the impugned order dated 07.05.2018. Consequently, the ad-interim injunction granted by order dated 22.08.2017 stood restored.

6. In view of the fact that son of respondent no. 1 has already been impleaded in the suit by order dated 25.09.2018 and also in view of the fact that by virtue of order dated 10.09.2018, interim order dated 22.08.2017 stood restored and is continuing till date and further since the application under Order 39 Rules 1 and 2 CPC is still pending, I deem it expedient to dispose of the appeal with a direction that the interim order granted by this Court by order dated 10.09.2018

continuing the ad-interim injunction dated 22.08.2017 shall continue to operate till the trial court takes up the application under Order 39 Rules 1 and 2 CPC in the Suit and disposes of the same.

7. The suit is stated to be listed before the trial court on 12.03.2020. Parties/their authorized representatives shall appear before the trial court on the said date and assist the court in disposing of the application under Order 39 Rules 1 and 2 CPC.

8. The appeal is disposed of in the above terms.

9. It is clarified that the trial court shall consider and dispose of the application under Order 39 Rules 1 and 2 CPC purely on its merit, without being influenced by anything stated in this order.

CM APPL. 45599/2018 (under Section 340 Cr. P.C)

On perusal of the entire record, I do not deem it expedient, in the interest of justice that an enquiry should be made on the allegations of the applicant. I am also not inclined to exercise powers under Section 340 Cr. P.C, in the facts and circumstances of the case. The application is accordingly dismissed.

Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J.

FEBRUARY 06, 2020

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