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

Date of Decision: 20th December, 2021

+ **RSA 95/2021**

KRISHAN LAL

..... Appellant

Through: Mr. Deepak Khadaria, Advocate.
(M:9811057358)

versus

MAHINDER PAL KATARIA

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done in physical Court. Hybrid mode is permitted in cases where permission is being sought from the Court.
2. The present second appeal arises out of the impugned judgment/decreed dated 1st April, 2021 passed by the *ld. SCJ-cum-RC (West), Tis Hazari Courts, Delhi* (hereinafter the “appellate court”) in *RCA No. 01/2021* titled *Sh. Krishna Lal v. Sh Mahinder Pal Kataria* vide which the appeal preferred by the Appellant/Petitioner, Sh. Krishan Lal (hereinafter “Appellant”) against the judgment/decreed dated 18th November, 2015 passed by the *Ld. CJ-12 (Central) Tis Hazari Courts, Delhi* in *CS No. 193/2014* titled *Krishna Lal v Sh. Mahinder Pal Katariya* (hereinafter “trial court”) has been dismissed.
3. The suit before the trial court was filed by the Appellant seeking permanent injunction against the Respondent/ Defendant, Shri. Mahinder Pal Katariya (hereinafter “Respondent”) in respect of 30 sq. yards of land forming part of property bearing No.52/65, Gali No.19, Nai Basti, Anand

Parbat, New Delhi (*hereinafter “suit property”*).

4. The said suit was dismissed by the trial court on 18th November, 2015 on the ground that the Plaintiff could not prove that the suit property is in his possession and/or his title documents in respect of the suit property. After filing the suit at hand but prior to its dismissal, the Appellant/Plaintiff filed a second suit bearing no. **CSDJ/613771/2016** before the District Judge, Delhi for recovery of possession, damages, and mesne profits and permanent injunction on 14th May, 2012 in respect of 60 Sq. yards in respect of the same property which was allegedly bought by the Appellants later on 19th October 2010. Yet another suit bearing **CS No. 140/2019** was filed in respect of recovery of possession qua 55 Sq. yards of the same property, which included 30 Sq. yards qua which the injunction was sought in CS No.193/2014 filed by the Appellant. Since, the injunction **Suit No. 193/2014** and the **Regular Civil Appeal no. 01/2021** have been dismissed there is an apprehension on part of Id. Counsel for the Appellant that the issue of limitation may arise in the third suit bearing no. **CS No. 140/2019**, which is pending for possession.

5. The question that arises in this appeal is whether the injunction suit was rightly dismissed. The question as to whether the impugned judgment would have any bearing on the two suits filed subsequently in respect of 60 Sq. Yards and 55 Sq. yards, where the 55 square included 30 Sq. yards in dispute, is to be adjudicated in the said two suits which are still pending adjudication. The benefit of Section 14 of the Limitation Act, 1963 in respect of the said two pending suits is not for this Court to comment upon. Since this is the only issue pressed in this appeal, in the opinion of this Court, this would not be a substantial question of law that arises in this

appeal. The said issue would at best be raised and adjudicated in the pending suits. The impact of the impugned judgements on the said suits is also a matter not to be considered by this Court currently, if in this second Appeal.

6. Upon hearing the submissions of the Id. Counsel for Appellant this Court is of the opinion that no substantial question of law, arises in the present appeal.

7. It is clarified that this Court has not examined the merits of the other suits and the appeal which are stated to be pending, which shall be decided by the adjudicating court in accordance with law. If the issue of limitation is raised by the Defendant therein, the Appellant would be free to put forth his case and rely upon Section 14 of the Limitation Act, 1963, if permissible. The said submission shall be considered by the adjudicating court on merits. No further orders are called for.

8. Accordingly, the present appeal is dismissed. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

DECEMBER 20, 2021/dk/SK