

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

+ **FAO 85/2023**

Date of decision: 11.04.2023

IN THE MATTER OF:

RAMESH KUMAR SINGLA AND ANR. Appellants
Through: Mr.Rishi Manchanda and Mr.Arun
Kumar, Advocates

versus

SATWANT KAUR. Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

CM APPL. Nos.17283-17285/2023 (Exemptions)

1. Allowed subject to all just exceptions.
2. The application is disposed of.

CM APPL. No.17286/2023 (Delay in refiling)

1. The present application has been filed under Section 151 CPC on behalf of the appellants seeking condonation of delay of 08 days in refiling the appeal.
2. For the reasons stated in the application, the same is allowed and the delay of 08 days in refiling the appeal is condoned.
3. The application is disposed of.

FAO 85/2023 & CM APPL. No.17282/2023

1. The appellants are aggrieved with the order dated 24.11.2022 passed by learned ADJ-10 (Central), Tis Hazari Courts, Delhi in an application under Order XXXIX Rules 1 and 2 CPC whereby a restraint order has been passed against them in respect of entire suit property till disposal of the suit.
2. Mr. Manchanda, learned counsel for the appellants has assailed the impugned order on the ground that though the suit has been pending since 2016, however no interim direction was passed. Suddenly, on 24.11.2022, the Trial Court passed the impugned order without any basis and further without granting any opportunity to the appellants to file the reply. It is also contended that on the said date, only application under Order 1 Rule 10 CPC was to be taken up for consideration.
3. Having heard learned counsel for the appellant, I find no ground to interfere with the impugned order as while passing the said order, the Trial Court noted that during the pendency of the suit, defendant No.1 sold the suit property vide two separate sale deeds dated 26.03.2021 to *Mr.Sarabjeet Boparai* and *Mr.Ramesh Kumar Singla* on account of which, the plaintiff had preferred applications under Order I Rule 10 CPC as well as under Order XXXIX Rules 1 and 2 CPC.
4. The appellants' other contention that they were not permitted to file the reply also merits rejection as a reading of the orders passed by the Trial Court would show that both the aforementioned applications filed by the plaintiffs came before the Trial Court on 24.05.2022 when notice was issued and time was given to file the replies. The applications were listed for arguments on 08.08.2022, on which date, the Court noted that the replies were not filed and further opportunity was given to the

appellants to file the replies, and the matter was re-notified for 05.09.2022 for argument on the said applications. The matter was again re-notified on 05.09.2022 for 20.10.2022 whereafter, the said applications were heard on 24.11.2022 and the impugned order came to be passed.

5. From the above, it is evident that the appellants had been given sufficient opportunities to file reply. There is nothing on record to show that the appellants were not heard on the application under Order XXXIX Rules 1 and 2 CPC.

6. Accordingly, I find no ground to interfere with the impugned order. Both the contentions are meritless and rejected. Accordingly, the appeal is dismissed alongwith pending application.

7. At this stage, Mr. Manchanda, learned counsel for the appellants prays that the matter may be directed to proceed expeditiously.

8. Considering that the underlying suit is of the year 2016, the Trial Court is requested to make an endeavour to expedite the trial.

(MANOJ KUMAR OHRI)
JUDGE

APRIL 11, 2023/v