



2023:DHC:7569



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 13.10.2023***+ **TR.P.(C.) 168/2023****SMITA CHAUDHRY**

..... Petitioner

Through: Ms.Geeta Luthra, Sr. Adv. with
Mr.Harish Malik, Mr.Kushal
Bhattacharya, Advs.

versus

PAWAN KUMAR YADAV & ORS. Respondents

Through: Mr.Kuljeet Rawal, Adv. for R-1

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)****CM APPL. 53502/2023 (Exemption)**

1. Allowed, subject to all just exceptions.

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2. This petition has been filed by the petitioner seeking transfer of an application filed by the petitioner herein under Order XXXIX Rule 2-A of the Code of Civil Procedure, 1908 (in short 'CPC'), being Misc. DJ No.548/2018, titled ***Lt. Col. Gaj Singh Yadav Through LR's v. Shayam Bai Through LR's***, pending adjudication in the Court of the learned Additional District Judge-05, Central, Tis Hazari Courts, Delhi, to this Court, to be heard alongwith RFA 517/2019, titled ***Satish Chandra Yadav v. Lt. Col. Gaj Singh***, pending before this Court.

3. The learned senior counsel for the petitioner explains that

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in the Suit, being CS DJ 12592/2016, titled ***Lt. Col. Gaj Singh Yadav Through LRs v. Shayam Bai Through LRs***, in spite of an *interim* order dated 30.07.2005, the respondent had transferred a parcel of land in Khasra no.23/1 situated in Village Kosli, Tehsil Kosli, District Rewari, Haryana, forcing the petitioner to file the above application. The Suit was finally decreed by the learned Additional District Judge vide its judgment and order dated 04.08.2018. In the said judgment and order, however, the learned Additional District Judge excluded the abovementioned land situated at Village Kosli, Rewari, and further directed that the above application filed by the petitioner under Order XXXIX Rule 2-A of the CPC shall be registered as a separate miscellaneous application and shall be considered separately. The petitioner has challenged the said judgment and decree before this Court in the form of the abovementioned appeal, being RFA no.517/2019, which is pending adjudication before this Court.

4. The learned senior counsel for the petitioner submits that in the interest of justice and for complete adjudication of the dispute between the parties, the above application should be transferred to this Court to be heard alongwith the appeal pending before this Court.

5. Mr.Kuljeet Rawal, Advocate appearing for the respondent no.1 on advance notice, opposes the present petition by contending that part arguments in the appeal have already been heard by this Court and, in fact, only rejoinder

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submissions remain to be addressed by the petitioner. He submits that, in fact, the appeal is listed for further hearing today itself. He submits that therefore, there is no reason for transferring the application to this Court at this belated stage, as it may de-rail further proceedings in the appeal.

6. I have considered the submissions made by the learned counsels for the parties.

7. In the present petition itself, the petitioner has fairly disclosed that the arguments in the appeal, that is, RFA 517/2019, are being heard on a day-to-day basis, and have been heard on 16.08.2023, 17.08.2023, 18.08.2023, 21.08.2023, 22.08.2023, 23.08.2023, 24.08.2023, 25.08.2023, 28.08.2023, 29.08.2023, and 06.09.2023. There is absolutely no averment explaining as to why this petition has been filed at this belated stage. It appears that the present petition is filed with *mala fide* intent of getting the appeal hearing de-railed.

8. I therefore, find no merit in the present petition and the same is dismissed.

NAVIN CHAWLA, J

OCTOBER 13, 2023/Arya/am

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