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

Date of decision: 18.12.2023

+ CM(M) 887/2018 & CM APPL. 31245/2018

VIRINDRA KAPOOR

..... Petitioner

Through: Ms. Gita Dhingra and Mr. Bhupinder
Yadav, Advocates

versus

VIJAY KUMAR SHARMA & ORS

..... Respondent

Through: Mr. Rishikesh Kumar, ASC, GNCTD
with Ms. Sheenu Priya, Advocate
Ms. Chandrika Gupta and Mr. Rajat
Aneja, Advocates for R-1 and 2
Mr. Vijay Chandra Joshi, CGSC for
R-3 and 4 with Mr. Varun Tazwar,
Law Officer, CEPI

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 26.02.2018 passed by Additional District Judge – 01 (Central) Tis Hazari Court, Delhi in CS No.19994/2016, titled as **Vijay Kumar & Anr. vs. Union of India & Ors.** ('Trial Court') whereby the Trial Court dismissed an application filed by the Petitioner herein under section 151 of Civil Procedure Code, 1908 ('CPC') for dismissal of the plaint on the ground that the civil court has no jurisdiction to entertain the suit under the



Enemy Property Act, 1968 as amended by the Enemy Property (Amendment and. Validation) Act, 2017 ('amended Act of 1968').

1.1. The Petitioner is the original defendant no. 4 and Respondent Nos. 1 and 2 are the original plaintiffs before the Trial Court.

1.2. The civil suit has been filed by Respondent Nos. 1 and 2 for seeking a declaration that the plaintiff no.1 is the absolute owner in respect of property bearing no.1862 to 1864 and 2248-2254 and plaintiff no. 2 is the absolute owner in respect of property bearing no. 1859 – 1861 and 2254-2260, both situated in Ward No. XV, Wazir Singh Street, Rajguru Road, Chuna Mandi, Paharganj, New Delhi ('suit properties') and permanent injunction against the defendants therein from taking the control, management and supervision of the suit properties from the plaintiffs.

2. Vide impugned order dated 26.02.2018 the Trial Court held that the suit was maintainable before the Trial Court as it was instituted prior to the amendment and was therefore, not barred by Section 18B of the amended Act of 1968.

3. This petition challenging the order dated 26.02.2018 was filed on 23.06.2018 and has remained pending before this Court. In the interregnum, the civil suit has been partly decreed by the Trial Court vide judgment and decree dated 28.03.2018 on the application filed by Respondent Nos. 1 and 2 under Order XII Rule 6 of CPC. It is pertinent to mention that the said judgment has been assailed by Respondent Nos. 3 and 4 herein in a Regular First Appeal i.e., **RFA No.234/2019** titled as **"Union of India & Anr v. Vijay Kumar Sharma & Ors"**. The issue of lack of jurisdiction of the civil court on the basis of the amended Act of 1968 has been specifically raised at



grounds (c), (d), (e) and (f) of the said appeal. The Petitioner herein is also a party in the said regular first appeal.

4. This Court vide orders dated 02.08.2023 and 24.11.2023 had observed that the Petitioner herein has the statutory remedy of filing cross objections under Order XLI Rule 22 of CPC in the said appeal.

5. The counsel for the Petitioner has contested the said legal position and states that since in the Trial Court's judgment dated 28.03.2018 there is no adverse order passed against the Petitioner herein, therefore, the Petitioner is not entitled to maintain the cross objections.

6. This Court finds no force in the submissions of the Petitioner and is of the considered opinion that since the issue of jurisdiction of the civil court to decide the reliefs with respect to the suit properties has been raised in RFA No.234/2019 and considering the fact that the Petitioner herein has been arrayed as a Respondent No.4 therein, the continuation of the present proceedings would only lead to multiplicity of proceedings.

7. The present petition is accordingly, dismissed leaving the issue of jurisdiction of civil court raised in the present petition open to be decided by the coordinate Bench of this Court in RFA No. 234/2019.

8. Pending application, if any, stands disposed of.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 18, 2023/msh/ms

Click here to check corrigendum, if any