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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.R.P. 37/2024**

SH RAJBIR SINGH & ORS. Petitioners

Through: **Mr. G.D. Sharma, Adv.**

versus

M/S K.B. REALHOMES PVT. LTD & ANR. Respondents

Through: **Mr. Vikas Yadav, Adv. for R-1**
Mr. Mukesh Kumar Verma,
Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **01.02.2024**

CM APPL. 5935/2024 (Ex.)

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

CM APPL. 5934/2024 (Stay) and CM APPL. 5936/2024 (By LR's of deceased petitioner No.1 for impleadment)

3. No decision is required to be passed on these applications, as I find that the present civil revision petition is bereft of any merits.

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4. The petitioners are assailing the impugned order dated 19.10.2023 passed by the learned ADJ-01, South-West District, Dwarka Courts, New Delhi. The petitioner is defendant no.1 in Civil Suit No. 388/2022 filed by the respondent No.1/plaintiff.
5. The suit is filed by the plaintiff company claiming that they are the recorded and actual owner of the agricultural land, which are



described by various Khasra Numbers in paragraph (03) of the plaint, and this suit regarding a piece of land falling in Khasra No. 19/20 (4-16), Village Tejpur Khurd, Tehsil Kapashera, New Delhi, stated to have been purchased vide Sale Deed dated 01.02.2016. It is the case of the plaintiff while his officials were visiting the site in January, 2022 for routine check up, they found that defendants No. 1 to 4 and 6 have raised illegal constructions on the suit property and two lanes from the adjoining property bearing Khasra No. 19/19 have been extended upon the suit property thereby encroaching upon measuring 3000 sq yards of land.

6. The petitioner/ defendant No.1 filed an application under Order VII Rule 11 CPC, evidently having two fold objections that the plaint was not disclosing *any cause of action*, and secondly **that though around 3000 Sq. Yards** of the area has been encroached, *ad valorem* court fee has not been paid on the market value of the property. Both these grounds were rejected by the learned Trial Court vide impugned order dated 19.10.2023.

7. It would be expedient to reproduce the relevant paragraph of the impugned order which goes as under:-

“ There are three grounds in the application u/o 7 rule 11 of the CPC namely lack of pecuniary jurisdiction, deficient court fees and no cause of action. This is a settled law that while deciding an application u/o 7 rule 11 CPC, court has to peruse the contents of the plaint only and not the statement or any document filed by either the plaintiff or the defendant. In view of the criteria, this court is of the view that there are no grounds to reject the plaint. The plaintiff has cause of action, properly valued the civil suit and affixed the proper court fees. Therefore, the application u/o 7 rule 11 CPC is hereby dismissed.”

8. Although its is a brief order, but it makes sense and sustainable in law. There is no need to write a long thesis on the subject in



question. Unhesitatingly, the facts stated above about the averments in the plaint does bring forth a semblance of a cause of action in favour of the plaintiff and against the defendants. Insofar as the valuation of the suit property is concerned, the same has been valued for the purpose of the jurisdiction and court fee @ 1,40,00,000/- and appropriate court fee stamp have been paid on *ad valorem* basis and there is further undertaking by the plaintiff to pay additional court fee, if the same is found to be deficient.

9. Therefore, at the initial stage of the suit, it cannot be said to be falling foul of Order VII Rule 11 CPC. The impugned order does not suffer from any illegality, perversity or incorrect approach.

10. Hence, the present civil revision petition is dismissed. Nothing contained herein shall tantamount to an expression of opinion on the merits of the case.

DHARMESH SHARMA, J.

FEBRUARY 1, 2024

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