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

+ C.R.P. 58/2024, CM APPL. 8327/2024 (stay)

SHRI VINAY GUPTA & ANR. Petitioners

Through: Mr. Sachit Sharma, Adv.

versus

SMT. SHABANA BEGUM

..... Respondent

Through: Mr. Shashank Verma,
Advocate.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **12.02.2024**

CM APPL. 8328/2024 (exemption)

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

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3. The petitioners, who are the defendants in the suit pending before the learned Trial Court, are assailing the impugned order dated 23.11.2023, whereby the application under Order VII Rule 11 CPC has been dismissed by the learned Civil Judge-02, Shahdara, Karkardooma Court, Delhi.

4. Learned counsel for the petitioners has vehemently urged that the respondent/plaintiff claims herself to be the owner of the premises in question and she has not made any clear averments as to what have been her grievance against the present petitioners/defendants. It is submitted that the proceedings are not of a civil nature, and if there is any grievance, the same should be brought forth by filing a complaint for initiating criminal proceedings against the petitioners/defendants.



5. Having heard learned counsel for the petitioners/defendants, I find that the present civil revision petition is bereft of any merits. The respondent/plaintiff is seeking a restraining order against the defendant and his henchmen for alleged threats to dispossess her from the premises in question.

6. During the course of arguments, it was submitted that her husband has taken a loan or had purchased some chits from the markets and he is under an obligation to repay the same.

7. Learned Trial Court while dismissing the application has assigned the following reasons:-

“5. It is well settled position of law that while adjudicating an application under Order VII Rule 11 CPC, only averments of the plaint are required to be taken into consideration and the defence of the defendant is wholly immaterial. The plaintiff has stated herself to be the owner of the suit property having purchased the same vide registered Sale Deed dated 13.02.2001. The plaintiff has categorically pleaded in para 5 of her plaint that the defendants along with their associates had entered into the suit property on 11.09.2022 and threatened to dispossess her from the same in order to meet their illegal demand of money. Having regard to the aforesaid pleadings, this court is of the considered view that the plaintiff has been able to disclose sufficient cause of action to enable her to file the present suit for injunction against the defendants. At this stage, the court is not required to delve into the merits of the claim of the plaintiff.

6. The cause of action set out by the plaintiff against the defendants that upon their entry into the suit property on 11.09.2022, they had threatened to dispossess her from the suit property pertains to disputes of a civil nature and accordingly, this court possesses the subject matter jurisdiction to decide the present suit by virtue of Section 9 CPC. The defendants in their application have further sought reliance on the order dated 22.02.2023 passed by the Ld. ASCJ, SHD, KKD Courts, Delhi passed in Civil suit bearing no. 1116/22 to contend that a similar suit filed by the plaintiff against other defendants was rejected under Order VII Rule 11 (a) and (d) CPC. It is well settled position of law that only the averments of the plaint are required to be taken into consideration while deciding the application under Order VII Rule 11 CPC and no documents filed by the defendant can be considered at this stage,”



8. On a bare reading of the aforesaid observations, there is no substance in the pleas raised by the learned counsel for the petitioners. The plaint read as a whole does demonstrate a particular cause of action for seeking injunction, and whether or not such threat is real, substantial or imminent is a matter of trial and the court cannot travel beyond the averments made in the pleadings to look into the defense espoused by the petitioners/ defendants.

9. Hence, the present Civil Revision Petition is dismissed.

10. Pending application also stands disposed of.

11. A copy of this order be given to the learned Trial Court for information and necessary compliance.

DHARMESH SHARMA, J.

FEBRUARY 12, 2024

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