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

+ **C.R.P. 68/2024**

GIRISH CHANDER SHARMA & ANR. Petitioners

Through: **Mr. Ravi Sharma and Mr.
Pulkit Luthra, Advs.**

versus

GAYATRI DEVI & ORS. Respondents

Through: **Mr. L.K. Singh, Mr. Raj Kumar
and Mr. Girish Sharma, Advs.
for R-5 to R-10**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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16.02.2024

CAV 74/2024

1. Since learned counsel for the caveator/respondents Nos. 5 to 10 has entered appearance, the caveat stands discharged.

CM APPL. 9443/2024 (Ex.)

2. Allowed, subject to all just exceptions.

3. The application stands disposed of.

C.R.P. 68/2024 and CM APPL. 9444/2024 (Seeking execution of sale deeds)

4. The petitioner is filing the present petition, whose plaint has been rejected by the learned Trial Court under Order VII Rule 11 CPC vide order dated 12.12.2023.

5. Learned counsel for respondents No. 5 to 10 is present on advance notice.

6. Learned counsel for the petitioner submits that he is seeking relief in terms of Section 22 of the Hindu Succession Act, 1956.



However, the said relief was not claimed in the original suit/plaint.

7. Learned counsel for respondents No. 5 to 10 has urged that the order rejecting the plaint is in the nature of a 'decree' by virtue of Section 2(2) of the CPC and the same is applicable, and therefore, the present petition is not maintainable.

8. After some arguments, learned counsel for the petitioner requests that he may be allowed to withdraw the present petition with the liberty to file a fresh appeal or any other suit based on similar cause of action, if permitted by law.

9. The petition is dismissed as withdrawn with liberty to the petitioner to seek appropriate legal remedies in law. The pending application is also disposed of.

DHARMESH SHARMA, J.

FEBRUARY 16, 2024

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