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

+ **FAO(OS) 27/2024 & CM APPL. 11491/2024**

MANOHAR LAL

..... Appellant

Through: Mr. Vikas Khatri, Mr. Manas Khatri,
Mr. Ashutosh Singh Yadav, Advs.

versus

SURINDER CHOJAR AND ORS.

..... Respondent

Through:

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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26.02.2024

1. Present appeal has been filed challenging the order dated 08th February, 2024 passed by a learned Single Judge in I.A. No. 22936/2023 (Application under Order I Rule 10, CPC for impleadment as a party to the suit) in CS (OS) 128/2019 whereby the learned Single Judge dismissed the application filed by the Appellant herein for impleadment as Defendant in the suit.

2. Learned counsel for the Appellant states that the suit property (A-62, Phase-I, Ashok Vihar, Delhi-110052) was initially purchased in an auction held on 18th June, 1967 from the DDA (Lessor) on lease hold basis in joint ownership by Bansi Lal, Mehar Chand, Des Raj (all deceased) and the Appellant herein for a sum of Rs. 25,500/-. He states that the Demand cum



allotment letter dated 12th July, 1967 was issued in the name of the all the co-owners as mentioned above by the Lessor. He states that Mr. Des Raj relinquished his rights in the suit property in favour of the other co-owners, including the Appellant herein and his name was deleted from joint ownership in respect of the suit property vide letter dated 28th August, 1971 issued by DDA. He states that DDA made an offer of possession on 25th September, 1971 and possession was handed over to the remaining joint owners i.e. the Appellant and his brothers namely Bansi Lal and Mehar Chand on 15th October, 1971.

3. He further states that DDA issued a letter dated 20th December, 1971 for getting four unsigned copies of the Perpetual Lease Deed stamped from the collector of stamps. He states that the letter of stamping was issued in favour of Appellant and his brothers. He states that it came as a shock to the Appellant when he came to know about the partition suit being CS (OS) 128/2019, filed between the LRs of Mr. Late Bansi Lal and Late Mr. Mehar Chand on the basis of a forged and fabricated lease deed dated 04th September, 1972, wherein the name of the Appellant written in the Lease Deed had been struck off without any counter signatures of any competent official authenticating it.

4. Having heard learned counsel for the Appellant, this Court finds that the underlying suit for partition has been filed on the basis of perpetual lease deed dated 04th September, 1972 which is a valid registered document and wherein not only the name of the Appellant has been struck off but the Appellant has also not executed the perpetual lease deed as a lessee. For the appellant to be impleaded in the partition suit, he would have to obtain a declaration from a competent court that the perpetual lease dated 04th



September, 1972 is either forged or fabricated or not a valid legal document.

5. In the underlying partition suit, no issue with regard to forgery or fabrication or legality and validity of the perpetual lease deed has been or can be framed. In fact, during the course of hearing, this Court was informed that the Appellant has filed a substantive declaratory suit today in the Rohini District Court with regard to the perpetual lease deed.

6. Consequently, this Court is of the opinion that in view of the perpetual lease deed as it exists today, the Appellant is neither a necessary nor a proper party to the present proceedings. This Court is also in agreement with the view of the learned Single Judge that impleading the Appellant and incorporating his challenge to the perpetual lease deed in the partition suit would change the nature of the suit.

7. Accordingly, the present appeal is dismissed.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 26, 2024

N.Khanna