



2024:DHC:8962



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 22nd October, 2024+ C.R.P. 84/2024, CM APPL. 12605/2024

MANOJ ARORA

.....Petitioner

Through: Counsel for petitioner (appearance
not given)

versus

SHRI JATINDER JAIN & ORS.

.....Respondents

Through: Counsel for respondent (appearance
not given)**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. Revision Petition under *Section 115 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC, 1908")* has been filed on behalf of the Revisionist-Manoj Arora (*Plaintiff in Case No. 814/2019*), to challenge the Order dated 25.11.2022 passed in the Counter Claim No. 18/2022 (*filed by Jatinder Jain*) vide which the Application under *Order VII Rule 11 of CPC, 1908* of the Revisionist, was dismissed.
2. Petitioner-Manoj Arora had filed the Case No.814/2019 for Declaration of *him being an Owner by Adverse Possession* and for *Permanent Injunction* against the Respondent-Jatinder Jain. The Respondent-Jatinder Jain (*Defendant in the main Suit*) filed the Counter Claim No.18/2022, seeking *Mandatory Injunction* for directing the



Petitioner-Manoj Arora, to hand over the possession of the '*Suit Property*' bearing No. 13-E, 2684, Second Floor, Sadar Thana Road, Sadar Bazar, Delhi-110006 and for *Permanent Injunction* as well as the *Mesne Profits*, on the averments that Shri Bal Kishan Arora had been living in the suit property as a Licencee along with his son, namely, Manoj Arora i.e., the Revisionist herein. After the demise of Shri Bal Kishan Arora in the year 2018, the Petitioner-Manoj Arora continued to reside in the suit property as a Licencee, whose possession was permissive in nature. Hence, *Mandatory Injunction* was sought on behalf of the Respondent-Jatinder Jain in his Counter Claim to Seek possession of the suit property.

3. Manoj Arora (*Defendant in the Counter Claim*) thus, filed the Application under *Order VII Rule 11 of CPC, 1908* stating that the suit property has been valued at Rs. 2,90,000/- only. However, the same should have been valued according to the market value of the suit property, but the court fee has been assessed on the relief of Injunction. It was thus, claimed that the Counter Claim is liable to be rejected.

4. In the Application under *Order VII Rule 11 of CPC, 1908*, it is the averments in the Plaint that have to be considered wherein Respondent-Jatinder Jain has taken a specific plea that the Petitioner-Manoj Arora is a permissive user of the suit property and he is liable to be directed to hand over the possession of the suit property to the Jatinder Jain. Though the suit property has been valued on a fixed Court Fee for Injunction, but it is ultimately the relief which is granted which would be the basis for the actual assessment of the Court Fee.

5. The Application under *Order VII Rule 11 of CPC, 1908* filed by the Petitioner (*Defendant in the Counter Claim*) herein, has been rightly rejected



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at this stage, by the learned Trial Court.

6. In view of above, there is no merit in the present Revision Petition which is hereby dismissed along with pending application with liberty to the Revisionist to get an issue framed on the aspect of court fee and the deficit court fee, if any, may be directed to be paid at the time of final Judgment.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 22, 2024/RS