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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CM(M) 2142/2024 & CM APPL. 16667/2024—stay, CM APPL. 16668/2024—for getting the R-1 to 5 served notice through their counsels

RAMESH CHAND JAIN ..... Petitioner

Through: Mr. Subhankar Sen Gupta, Adv.

versus

GHASI RAM JAIN (SINCE DECEASED)  
THROUGH HIS LRS AND ORS ..... Respondents

Through: Mr. Thakur Sumit, Adv. for R-4.  
Mr. J.K. Bhola, Mr. Mohit Mittal, Mr. Gaurav Jain, Mr. Ankit Jain, Ms. Muskan Bhola & Mr. Pratap Paliwal, Adv. for R-2 & 3.

**CORAM:**  
**HON'BLE MS. JUSTICE SHALINDER KAUR**

**ORDER**  
**10.04.2024**

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1. The present petition under Article 227 of the Constitution of India read with Section 151 Code of Civil Procedure, 1908 (hereinafter referred as “CPC”) has been filed impugning the order dated 21.02.2024 passed by the learned Additional District Judge-04 (South West), Dwarka Courts, Delhi, (hereinafter referred as “Trial Court”) in suit bearing no. CS ADJ 16857/2016 titled as ‘*Ghasi Ram Jain vs. Padam Chand Jain and Ors*’.
2. Petitioner herein is defendant no.3 before the learned Trial Court.
3. It is submitted that a suit for partition and permanent injunction was



instituted by late Ghasi Ram Jain against respondent no.2, 3 (now deceased) and respondent no.4 on 14.08.2000.

4. Learned counsel for the petitioner submits that on 21.02.2024, he had moved an application under Order XII Rule 6 Code of Civil Procedure, 1908 (hereinafter referred as 'CPC') and notice to which was issued and accepted by the parties appearing in the suit. Matter was listed for reply, rejoinder of the application and but has not been listed for hearing thereafter. The matter was fixed for 12.03.2024. Learned counsel submits that the only grievance of the petitioner is that the learned Trial Court has not listed his application under Order XII Rule 6 CPC for hearing, thus, directions be issued to the learned Trial Court to hear the said application before the defendant's evidence is to be examined.

5. Learned counsel for the petitioner submits that on 12.03.2024, matter could not be taken up and was taken up on 13.03.2024 and again the Court did not mention anything about the application pending under Order XII Rule 6 CPC. Subsequently, the petitioner had moved an application on 21.03.2024 seeking early disposal of his application under Order XII Rule 6 CPC which was taken up on 22.03.2024, however, the court has not passed any orders either on the early hearing application or specified that when the application moved on behalf of the petitioner under Order XII Rule 6 CPC shall be taken up for disposal and has proceeded to record defendants evidence.

6. Learned counsel for the respondents takes objection to the said submissions and contends that on 13.03.2024, the application under Order XII Rule 6 CPC may have been taken up for consideration, however, the counsel for the petitioner withdrew his Vakalatnama and the matter was



posted for 19.03.2024. It is also submitted that after the Vakalatnama was withdrawn, the petitioner has himself requested before the learned Trial Court on 13.03.2024 time to engage a suitable advocate within a period of two weeks. Moreso, in the application for early hearing, he has mentioned that to address arguments on the application, a nearest possible date within a week be granted. Therefore, in these circumstances, the learned Trial Court could not take up the said application for hearing.

7. It is also submitted that matter is fixed before the learned Trial Court on 12.04.2024.

8. The orders of the learned Trial Court including the impugned order perused and it is apparent that an application under Order XII Rule 6 CPC is pending disposal for which replies have already been placed on record, however, the said application has not been taken up for hearing by the learned Trial Court and no date has been mentioned that when the same shall be taken up for hearing though the matter is listed for defendants evidence.

9. Keeping in view the above submissions, the learned Trial Court to also take up the application under Order XII Rule 6 CPC for hearing on the next date of hearing before it i.e. 12.04.2024.

10. No further directions are required.

11. With above observations, petition as well as pending applications stand disposed of.

**SHALINDER KAUR, J.**

**APRIL 10, 2024**

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