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

+ **CM(M) 2150/2024**

**BHAI BALBIR SINGH (DECD.) THROUGH LRS ..... Petitioner**

Through: Mr. Sanjeev Sindhwani, Sr. Adv. with  
Mr. Megha Mukharjee, Mr. Akshay  
Ringe, Mr. Dhananjay Gupta and Ms.  
Shelly Singh, Advs.

versus

**BHAI SARDAR SINGH (DECD.) THROUGH LRS ..... Respondent**

Through: Mr. Pawanjit Singh Bindra, Sr. Adv.  
with Mr. Lakshay Dhamija, Adv.

**CORAM:**

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

**ORDER**

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**18.03.2024**

**CM APPL. 16746/2024—Exp.**

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

**CM(M) 2150/2024, CM APPL. 16745/2024—stay, CM APPL. 16747/2024—4 days re-filing**

3. The present petition under Article 227 of the Constitution of India has been filed impugning the order dated 23.01.2024 passed by the learned Link Judge, Additional District Judge-10, Central, Tis Hazari Courts, Delhi in application under Order XXXIX Rule 4 of Code of Civil Procedure, 1908 (hereinafter referred as “CPC”) in suit bearing no. 1877/1984 titled as “Bhai



Sardar Singh (decd.) through LRs vs. Bhai Trilochan Singh (decd.) through LRs”, whereby the learned Link Judge vacated the stay granted vide order dated 11.01.2024 through the impugned order. The petitioner herein is the defendant before the learned Trial Court.

4. Learned counsel for the petitioner submits that there is a grave urgency in the matter and a very short issue is involved. Since the presiding officer i.e. ADJ-09, Central District, Tis Hazari Courts, Delhi was on CCL, therefore, the matter was listed before the link Judge / ADJ-10, Central District, Tis Hazari Courts, Delhi when the impugned order came to be passed.

5. It is submitted that the respondent no. 1 filed a suit for partition of joint family properties in 1984 and on 25.01.2000, the said suit was dismissed for non-appearance of the respondent no. 1. Subsequently, the said suit was restored on 19.08.2004. Once again, the said suit was dismissed in default on 11.01.2010 and again vide order dated 08.08.2018 the suit was restored.

6. It is submitted that the petitioners on 25.11.2023 preferred an application under Section 16 of the Punjab Pre-emption Act, 1913 before the learned Trial Court and notice was issued on the same. The said application was to be listed for hearing on 22.12.2023 when the learned Trial Court Judge proceeded for child care leave till 31.01.2024. Vide order dated 11.01.2024, the learned Link Judge granted stay on the property no. 9 Amrita Shergil Marg. Subsequently, the respondents filed an application under Order XXXIX Rule 4 CPC for vacation of the said stay order.

7. It is further submitted that vide order dated 23.01.2024 the learned Link Judge vacated the stay order on the ground that the same was passed on



an application for preponement and not in the main application.

8. It is submitted that learned link Judge / ADJ-10, Central District, Tis Hazari Courts, Delhi has erroneously vacated the stay in the application for early hearing filed under Section 151 CPC.

9. It is submitted that there is an emergent situation, however, the Court of learned ADJ-09 is still on CCL till 29.03.2024 as per official intimation on the website of Delhi District Courts.

10. It is submitted that in such a situation, the present matter be posted to any other Court for hearing the application under Section 16 of the Punjab Pre-emption Act, 1913 in this week only.

11. In view of the submissions as made above, parties / learned counsels are directed to appear before the Court of learned Principal District & Sessions Judge, Central District, Tis Hazari Courts, Delhi on 19.03.2024 and request the learned Court to post the matter to some other competent court of learned Additional District Judge, who shall hear the application under Section 16 of the Punjab Pre-emption Act, 1913 and Order XXXIX Rule 4 CPC, and list the same for 22.03.2024 for hearing arguments and for disposal of the said applications for a date which is convenient to the court, keeping in view the urgency in the matter.

12. With above observations, no further direction is required. Petition stands disposed of accordingly.

13. A copy of this order be given *dasti* under the signatures of Court Master, as requested.

**SHALINDER KAUR, J**

**MARCH 18, 2024/ss/dp**