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

% ***Date of decision: 24th July, 2024***

+ CM(M) 1213/2019, CM APPL. 37087/2019 & CM APPL. 6800/2020
NITIN TOKASPetitioner

Through: Mr. Gautam Gupta, Advocate

versus

JOGINDER SINGH TOKAS & ORSRespondent

Through: Mr. Anil Dabas & Mr. Praveen
Kumar, Mr. Prateek Rai, Ms. Soniya
& Ms. Nidhi Dhull, Advocates for
R1, R2 & R4
Mr. Aditya Jha, Advocate for
respondent

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Petitioner is plaintiff before the learned Trial Court and has filed a suit seeking declaration, partition, permanent injunction, mesne profit and damages.
2. In Paras 25 & 26 of the said suit, he has made avements with respect to the valuation of the suit properties and the valuation for the purposes of court fee. These read as under:-

25. That the joint value of the suit properties for purposes of jurisdiction is Rs. 1,00,00,000/- (Rupees One Crore only) and value of the suit for the purpose of declaration, partition and injunction is Rs. 1,000/-. The suit is therefore within the pecuniary jurisdiction of this Hon'ble Court.



26. That plaintiff values the suit for the purposes of court fee (a) on the relief of declaration each at Rs. 1,000/- on which a court fee of Rs. 100/- each is payable, (b) for the relief partition of the suit properties qua the 1/20th share of the Plaintiff is at Rs. 5,00,000/- on which a court fee of Rs. 7,200/- is payable and (c) for the relief of permanent injunction at Rs. 300/- on which a court fee of Rs. 30/- is payable and on total amount of Rs. 5,01,300/- a composite court fee of Rs. 7,400/- is payable. The Plaintiff undertakes to pay the court fee on damages and mense profit amount as and when the same is ascertained by this Hon'ble Court. The plaintiff continues to be in actual and constructive possession of suit properties as a coparcener member of the HUF.

3. When the learned Trial Court considered the application moved by the defendants under Order VII Rule 11 CPC, learned Trial Court directed the plaintiff to re-value the suit on the basis of the market value of the property and then to file appropriate court fee on the next date of hearing. Accordingly, such application moved by the defendants under Order VII Rule 11 CPC was disposed of in above terms.
4. Such order dated 03.07.2019 is under challenge.
5. During the course of the arguments, when asked, learned counsel for the petitioner states that as per the instructions, which he has received from his client, the valuation mentioned in the suit is described as per the market value. He also supplements that on the basis of the objection taken by the defendants, if issue with respect to court fee is framed and if such issue is eventually decided against the plaintiff, he would abide by any direction passed by the Court and would deposit deficient court fee as per the direction of the Court.
6. Such statement is taken on record.
7. The petitioner has allegedly given market value of the properties in question as per his assessment. Even if his such assessment is wrong and its



a case of deliberate undervaluation, at such initial stage, the petitioner can't be asked to re-assess the market value. It would certainly be subject to trial.

8. During course of the arguments, learned counsel for the respondents i.e. defendants no. 1, 2 & 4 has stated that present petition may accordingly be disposed of in view of the aforesaid statement made by learned counsel for petitioner.

9. In view of the above, since according to petitioner/plaintiff, he has calculated the valuation as per the market value only and since at the preliminary stage when the Court is seized of any such application moved under Order VII Rule 11 CPC, only the basic averments made in the plaint are required to be gone into, the direction regarding revaluation of the suit property is hereby set aside.

10. Learned Trial Court would accordingly proceed further with the matter in accordance with law.

11. Petition stands disposed of in the aforesaid terms.

12. It is expected that both the sides would render due assistance and co-operation to the learned Trial Court so that learned Trial Court is in a position to dispose of the matter as expeditiously as possible.

(MANOJ JAIN)
JUDGE

JULY 24, 2024/dr