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

% ***Date of decision: 08th July, 2024***

+ CM(M) 2858/2024

SUBHASH CHAND JAINPetitioner

Through: Mr. Alok Gupta, Advocate.

versus

SATISH KUMARRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 37335/2024 CM APPL. 37336/2024 CM APPL. 37337/2024 (exemption)

Exemption allowed subject to all just exceptions.

CM(M) 2858/2024

1. Petitioner happens to be the plaintiff before the learned Trial Court and has filed a suit seeking declaration and permanent injunction.
2. His application under Order XXXIX Rule 1 and 2 CPC read with Section 151 CPC was dismissed by the learned Trial Court on 10.11.2016 also holding that nothing observed in such order would tantamount to opinion of the Court on the merits of the case.
3. An appeal was filed by the plaintiff but his such appeal was also dismissed by the learned Appellate Court vide order dated



09.02.2024.

4. After hearing the arguments for some time, learned counsel for the petitioner has, in all fairness, confined his request only to the extent that the observations made by the learned Trial Court as well as the learned Appellate Court should not be taken as a final expression on the merits of the case. He does not press for any further relief.
5. Undoubtedly, the aforesaid observations have been given merely on tentative basis and the parties are yet to adduce evidence before the learned Trial Court and therefore these observations and findings, being *prima facie* in nature, are always subject to the final outcome of the case.
6. At the cost of reiteration, it is clarified that the observations made in the impugned order by the learned Trial Court are *prima facie* and tentative in nature and would not be taken as final expression on the merits of the case.
7. Petition stands disposed of in the abovesaid terms.

(MANOJ JAIN)
JUDGE

JULY 08, 2024
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