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

+ **FAO(OS) 100/2024, CM APPL. 39907/2024, CM APPL. 39908/2024
& CM APPL. 39909/2024**

LAJPAT RAI JAGGA & ORS

.....Appellants

Through: Mr. Kirti Uppal, Senior Advocate
with Ms. Shaini Bhardwaj, Mr.
Aditya Sharma and Ms. Kiran Kalra,
Advocates

versus

SHRI NIRANJAN KUMAR BANSAL & ORSRespondent

Through: Mr. Satyakam, ASC (GNCTD) with
Mr. Pradyut Kashyap, Advocate

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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19.07.2024

1. Present appeal has been filed challenging the judgment dated 20th March 2024 passed by the learned Single Judge of this Court in IA No. 1677/2023 in CS(OS) 557/2019 whereby the application under Order VII Rule 11, CPC filed by the appellants/defendants for rejection of plaint, filed by the respondent no.1/plaintiff, was dismissed.

2. Learned senior counsel for the appellants states that the respondent no.1 had previously filed a suit being CS DJ 6/2015 (renumbered as CS DJ 13847/2016, seeking Partition, Permanent Injunction, Declaration, Possession as well as Demarcation, which was unconditionally withdrawn on 31st May 2019. He states that subsequently respondent no.1 filed the



subject suit seeking similar reliefs. He states that in the subject suit, the respondent no.1 has concealed that a suit had been instituted by him previously. He thus contends that the subject suit is barred under Order XXIII Rule 1(4) and Order II Rule 2, CPC.

3. A perusal of the paper book reveals that the present appeal is barred by delay of 85 days. Keeping in view the aforesaid, the appeal is dismissed on the ground of delay. However, the issue of law raised by the appellants is left open. It is clarified that the impugned order shall not prejudice the rights and contentions of the parties in the pending proceedings.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 19, 2024

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