



\$~A-85

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

+ C.R.P. 244/2024

SH KAPIL KUMAR

.....Petitioner

Through: Mr.Jai Wadhwa, Mr.Ronak
Karanpuria & Mr.Anshu Kumar
Yadav, Advocates

versus

SH. RAJ KUMAR MALHOTRA & ORS.

.....Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

%

21.08.2024

CM APPL. 47720/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

CM APPL. 47721/2024 (Delay)

1. This is an application under Section 5 of Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 for condonation of delay in filing the captioned revision petition.

2. For the sufficient cause being shown in the application, the delay of 24 days in filing the captioned revision petition is condoned.

3. The application is disposed of.

C.R.P. 244/2024 & CM APPL. 47719/2024 (Stay)

1. The instant civil revision petition under Section 115 of the Code of



Civil Procedure, 1908 (hereinafter referred to as “CPC”) has been filed on behalf of the petitioner seeking the following reliefs:-

*“(i).Allow this Civil Revision Petition and quash and set aside the impugned order dated 06.04.2024 passed by ADJ. 07 west distt. Tis Hazari Courts, New Delhi in Civ DJ NO.627 of 2020.
(ii). Any other or further order(s) may also be passed as this Hon’ble court may deem fit and proper in the facts and circumstances of the case.”*

2. Learned counsel appearing on behalf of the petitioner submitted that while passing the impugned order dated 6th April, 2024, the learned Trial Court has not considered the submissions made by learned counsel for the applicant/defendant therein in the application under Section 6 read with Section 151 of the CPC.

3. It is submitted that the said application was treated as the application filed under Order VII Rule 11 of the CPC by the learned Trial Court and the same is evident from paragraph 3 of the impugned order. It is further submitted that the learned Trial Court failed to appreciate that preliminary objection as to the valuation of the suit contending that the relief sought for in the suit had been grossly undervalued and the Court should reject the plaint under Order VII Rule 11(b) of the CPC.

4. Learned counsel appearing on behalf of the petitioner submitted that as per the Circle Rates applicable in Delhi, the valuation of the suit property is more than Rs.2 Crores i.e. around Rs.4,66,16,000/-, and thus, the learned Trial Court does not have the pecuniary jurisdiction to try and adjudicate the said suit.

5. It is submitted that the impugned order passed by the learned Trial



Court is contrary to the law as well as statutory provisions of Order VII Rule 11(b) of the CPC.

6. It is further submitted that as recorded in the impugned order by the learned Trial Court that present suit has been filed seeking the relief of partition of the Joint Hindu Family property and it is a settled position of law that Section 7 (iv) of The Court Fees Act, 1870 provides a right to the plaintiff to place any valuation that he likes on the relief he seeks and the Court has no power to interfere with the plaintiff's valuation, in incorrect.

7. Heard learned counsel appearing on behalf of the petitioner and perused the record including the impugned order as well as the application filed by the applicant before the learned Trial Court (Annexure-P3)

8. The learned Trial Court, while adjudicating the aforesaid application, has given a reasoning which is reproduced hereinbelow:-

“...6.1. The perusal of the record reveals that in para 23 of the plaint, the plaintiff has carried out the valuation of the suit properties of the present suit as Rs.1.80 Cr. /-, which is within the pecuniary jurisdiction of this Court and at this stage, this Court has to take the averments of the plaint on their face value and has to treat them as correct. The plea taken by the applicant/ defendants that as per the circle rates of the suit properties the value is around Rs. 4,66, 16,000/- cannot be adjudicated at this stage as the same is the part of their defence which cannot be considered at the time of the adjudication of the application under Order 7 Rule 11 CPC, moreover, no supporting documents have been filed alongwith the application reflecting the plea taken by the applicant in their application.”

9. Upon perusal, it is made out that the learned Court below duly adjudicated the application on the basis of the averments made in the plaint



and therefore held the suit to be well within its pecuniary jurisdiction.

10. It is a well settled position of law that under Order VII Rule 11 CPC, the Courts are required to confine themselves to the contents made in the plaint only and other factors need not be delved into while adjudicating the said application.

11. In the impugned order, the issue before the learned Court below was regarding the valuation of the suit and therefore, the defendants had prayed for dismissal of the same by contending that the alleged value of the property in question is more than 2 crores.

12. As discussed in the foregoing paragraphs, the Courts are required to confine themselves to the averments made in the plaint, and since the applicant had prayed for dismissal of the suit, the learned Court below rightly referred to paragraph no. 23 of the plaint, wherein, the suit value was determined to be 1.80 crores, hence, there is no dispute regarding the same in the plaint itself.

13. Even though the said valuation has been challenged by way of filing an application under Section 6 CPC, the same can only be determined after ascertaining the various documents supporting such contention made by the parties and any transfer thereto shall happen after necessary adjudication of the said claim made by the plaint, therefore, the dismissal of suit could not happen at the outset.

14. After considering the arguments advanced by learned counsel for the petitioner and upon perusal of the impugned order as well as contents of the application filed under Section 6 read with Section 151 of the CPC, this Court is of the view that the learned Trial Court has rightly passed the impugned order by stating that the plea taken by the applicant/defendant



regarding the pecuniary jurisdiction may be adjudicated at the right stage and therefore the application filed for dismissal of the suit on the basis of pecuniary jurisdiction was rightly treated as an application under Order VII Rule 11 CPC as the nomenclature of the application was similar to the one filed for dismissal of the plaint.

15. Furthermore, in the impugned order itself, the learned Court below rightly held the valuation of the suit to be the prerogative of the plaintiff and therefore, a dismissal sought at the outset is impermissible and beyond the powers of the Court.

16. In view of the above facts and circumstances and after considering the entirety of the present matter, this Court does not find any error in the impugned order passed by the learned Trial Court as the learned Court below rightly relied upon the settled position of law while adjudicating the application.

17. Accordingly, the instant revision petition alongwith pending application stands dismissed.

CHANDRA DHARI SINGH, J

AUGUST 21, 2024

Dy/av

[Click here to check corrigendum, if any](#)