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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 3298/2024 & CM APPL. 50436-50437/2024**
SARDAR BALWINDER SINGHPetitioner

Through: Mr. Naresh Kumar Charnal, Advocate
with petitioner-in-person

versus

UMED SINGHRespondent

Through: None

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% **02.09.2024**

CM APPL. 50437/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3298/2024 & CM APPL. 50436/2024

1. Petitioner is plaintiff before the learned Trial Court and has filed a suit seeking recovery of Rs. 23 lacs.
2. During course of the pendency of above-said suit, learned Trial Court took up application moved under Order XXXIX Rules 1 & 2 CPC and safeguarded the interest of the plaintiff by restraining the defendant from selling property in question during the pendency of the suit or in case he wanted to sell the property, then he could sell the same after depositing security of Rs. 11,50,000/- in the Court.
3. According to petitioner/plaintiff, despite aforesaid direction, defendant entered into a agreement-to-sell. But he, in a very clever manner, when confronted in this regard, apprised the Court that though there was an

CM(M) 3298/2024

1



agreement but it did not materialize. It is contended that petitioner/plaintiff has already filed an application seeking initiation of contempt proceedings which is pending adjudication.

4. Plaintiff, however, also moved an application under Order XXXVIII Rule 5 r/w Section 151 CPC seeking attachment before judgment on the account of wilful disobedience by the defendant of the aforesaid injunction order.

5. Said application has been dismissed and this is how the petitioner/plaintiff has filed the present petition challenging the aforesaid order dated 09.07.2024.

6. It is quite clear that despite the fact that there was a direction to the defendant that he would not sell the property during the pendency of the matter, he seems to have entered into one agreement-to-sell with respect to one floor of the property and as per the impugned order, contention of the defendant was that such proposed buyer had backed out from the agreement and that *defendant was having no intention to dispose of the suit property and he is still ready to obey the order dated 30.11.2021.*

7. Since the application seeking initiation of contempt is already pending disposal before the learned Trial Court, this Court would not make any further observation in this regard lest it prejudices the learned Trial Court but one thing is very obvious that defendant should not have entered into any such agreement-to-sell without the knowledge and permission of the learned Trial Court.

8. Defendant is reportedly based out of Delhi and, therefore, plaintiff had moved the aforesaid application seeking attachment before the judgment.

9. After hearing arguments for some time, learned counsel for petitioner



states that he does not press the present application but keeping in mind the malafide intention of the defendant, which is writ large, he may be permitted to move application before the learned Trial Court seeking direction to defendant to deposit the aforesaid amount of Rs. 11,50,000/- before the learned Trial Court.

10. Viewed thus, present petition is hereby dismissed as not pressed while reserving all the rights and contentions of the parties. Petitioner is also permitted to move appropriate application before the learned Trial Court seeking direction to defendant to deposit the amount in terms of order passed by the learned Trial Court on 30.11.2021. Learned Trial Court would hear both the sides with respect to said application and would dispose of the same in accordance with law.

MANOJ JAIN, J

SEPTEMBER 2, 2024/dr