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

+ **CM(M) 3834/2024**

KAMLA AND ORS

.....Petitioners

Through: Mr. Sukhda Dhamija & Ms. Aroma
Rataeeya, Advs.

versus

KANTA YADAV

.....Respondent

Through: Mr. Neeraj Kumar Jha, Adv.
alongwith husband of respondent

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **18.11.2024**

CM APPL. 66775/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 3834/2024 & CM APPL. 66774/2024 (Stay)

1. Petitioner impugns the order dated 05.09.2024 passed in Suit bearing No. CS SCJ 69/22 titled "Kanta Yadav Vs. Kamla & Ors."
2. Petitioners are the defendants in the Suit for Declaration, Permanent Injunction and Consequential Relief filed by the defendant. In their Written Statement filed before the trial court, petitioners took preliminary objection regards the pecuniary jurisdiction of the court.
3. Learned trial court sought report from the SDM Office. As per report, Khasra No. 10/9 is an agricultural land and the circle rate of 4840 sq. yards



was Rs. 53 lakhs. Since the suit was filed for 166 sq. yards, learned trial court was of the view that the value of the suit property would fall around Rs. 1,85,206/- and within the pecuniary jurisdiction of the court.

4. Learned counsel for the petitioner submits that the suit property is situated in a built up colony, which is subject to the proceedings under Section 81 of DLR Act before the SDM, Punjabi Bagh. He further submits that the Khasra Girdawari for the year 2010-11 clearly reflects in the remarks column that the entire land is comprising of houses/built up properties and not agricultural land as alleged in the suit.

5. It has also been submitted that the suit property is situated in 'H' category as per the circle rates applicable to Delhi w.e.f. 23.09.2014, wherein, the minimum value is Rs. 23,280/- per sq. meter and thus calculating at the said rate, the value of the suit property was approximately Rs. 32,31,194.16 on the date of filing of the suit and hence beyond the pecuniary jurisdiction of the Civil Judge.

6. Learned counsel further contends that trial court has erred by passing the impugned order, solely on the report of the Tehsildar and without taking any other evidence into consideration. The trial court also failed to consider the notification dated 16.05.2017 relied upon by the petitioner. It is also submitted that Tehsildar/SDM filed the copy of computer generated Khatauni pertaining to the land in question which does not reflect the land use being agricultural or non-agricultural. It is submitted that the value of the suit property being more than the pecuniary jurisdiction of the civil court, the impugned order dated 05.09.2024 is liable to be set aside.

7. Per contra, the learned counsel for the respondent has submitted that the suit property is an agricultural land and has accordingly been valued by



the learned trial court on the basis of the circle rate given by the SDM Office.

8. Learned trial court assessed the value of the suit property on the assumption that it was an agricultural land, which has been disputed by the learned counsel for the petitioner. Therefore, the trial court first needs to decide as to whether the suit property is an agricultural land or a built up property and only then assess its value to determine the question of pecuniary jurisdiction. In view of this, the impugned order dated 05.09.2024 passed by the learned Civil Judge cannot be sustained and is set aside with direction to frame the issue with regard to maintainability of suit on the ground of pecuniary jurisdiction. Needless to mention that at times, such question may be a mixed question of facts and law.

9. Petition is accordingly disposed in terms of the aforesaid order.

RAVINDER DUDEJA, J

NOVEMBER 18, 2024

RM