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

\+ CM(M) 1044/2018 & CM APPL. 36183/2018

KARANVIR SINGH .....Petitioner

Through: Mr. Madan Mishra, Advocate.

versus

JASBIR SINGH & ORS .....Respondent

Through: Mr. Prateek Tanwar, Advocate for R-2.
Mr. Uchit Bhandari, Advocvate for R-1, 4, 5, 8, 10-17.
Mr. Rahul Saini, Mr. K.M. Saniya, Ms. Neha Tyagi & Mr. Chetanya, Advocates for R-17 to 25, 27, 28, 30, 31 & 37 to 45.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

O R D E R

% 24.07.2024

1. The petitioner is plaintiff before the learned Trial Court who has filed suit for partition and rendition of accounts.

2. There are more than 50 defendants in said suit as on date.

3. It is important to note that at one earlier point of time when an application under Order XXXIX Rule 1 & 2 read with Section 151 CPC had been moved by the plaintiff, defendant No. 1 was restrained from creating any third party interest in the property in question and defendant Nos. 12, 14 and 15 were also restrained from raising any construction or creating any third party interest in the suit property.

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4. However, when the learned Trial Court took up this matter on 02.05.2018, it noted as under:-

> *"CS No. 58286/16*
> *Karanvir Singh vs. Jasbir Singh & ors*
> *02.05.2018*
> *Present: Sh. Satyapal Singh, Id counsel for plaintiff.*
> *Sh. Uchit Bhandari, Id counsel for defendant no. 1 to 17.*
> *Defendant no. 1, 5, 18 to 25 and 29 in person.*
> *LRs of defendant no. 26, 27, 29 to 30, 37 and 38 to40 in person.*
>
> *Arguments on pending application u/o 22 rule 4 r/w section 151 of CPC and u/o 40 r/w section 151 of CPC heard.*
> *Re-list this matter for clarification if any / order on 29.05.2018.*
> *I note that this is a suit for partition and there are almost 46 parties. Now the pleadings are complete, matter has to be put for trial.' Miscellaneous application has to be disposed of. I further note that any application which is found frivolous shall be disposed of with cost to the extent of Rs.15000/-."*

5. The first grievance of the petitioner is with respect to the aforesaid caution note. According to learned counsel for petitioner, the learned Trial Court seems to have prejudged that the petitioner is in a habit of filing false and frivolous applications.

6. To the above extent, the observation was little premature and unwarranted.

7. Though, the observation/caution note seems general and not specific to plaintiff only, needless to say, wherever any such application is moved by either of the parties, taking note of the attendant facts and circumstances, if the court comes to a conclusion that the application is false or frivolous, it can always impose cost upon any such applicant but to generalize the same in the manner it has been done, was not justified and, therefore, to that extent the present petition stands allowed and the caution note is set aside.

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8. The second grouse of the petitioner is with respect to non-appointment of the Receiver.

9. It is contended that the learned Trial Court should have appointed the Receiver.

10. After hearing the matter for some time, learned counsel for petitioner, on instructions, states that he does not wish to press the present petition with respect to the fact related to non-appointment of Receiver. It is supplemented that the petitioner i.e. plaintiff, may however, be given liberty to file appropriate application so that it could be ascertained as to what kind of rent is being collected from the tenants inducted in the suit property. This, according to petitioner, would prove handy at the final stage of ascertaining rendition of accounts.

11. In view of the aforesaid statement made by the learned counsel for petitioner, the present petition stands disposed of as not pressed in context of order dated 19.05.2018.

12. Liberty, as prayed for, is granted.

13. The petition stands disposed of in above terms.

MANOJ JAIN, J

JULY 24, 2024/*da*

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