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

+ **FAO(OS) 16/2025, CM APPL. 7990/2025-Delay 71 days, CM APPL. 7991/2025-Exp**

GHANSHYAM KHOHAR

.....Appellant

Through: Mr. Arvind Kumar Gupta, Advocate

versus

MADAN MOHAN THROUGH HIS LEGAL HEIRS & ORS.

.....Respondents

Through: Mr. Akshat Sharma and Mr. Himanshu Bhandari, Advocates

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

11.02.2025

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1. The present appeal under section 104 of the Code of Civil Procedure, 1908 (CPC) seeks to assail the order dated 14.10.2024 passed by the learned Single Judge in CS(OS) No. 366/2018 whereby the learned Single Judge has dismissed the application of the appellant/ plaintiff under Order XXXIX Rule 2A of the CPC being I.A. 42052/2024 by observing that the Court was not persuaded to initiate any contempt proceedings against the non-applicant/LRs of defendant no.2 i.e. respondent no.1 in the present appeal.

2. At the outset, we have put to learned counsel for the appellant as to how the present appeal would be maintainable. He submits that the appellant has been compelled to approach this Court as while rejecting the application under Order XXXIX Rule 2A of the CPC, the learned Single Judge has also



modified the earlier interim order granted on 10.12.2018, which was not permissible.

3. After some arguments, he submits that for the present, the appellant would be satisfied in case this Court was to clarify that the observations made and the directions issued in the impugned order will not influence the adjudication of the pending suit before the learned Single Judge.

4. In light of the aforesaid, the appeal alongwith accompanying applications, is disposed of as not pressed by making it clear that the observation made in the impugned order will not have any bearing on the outcome of the pending suit and therefore will be treated only as *prima facie*.

REKHA PALLI, J

SAURABH BANERJEE, J

FEBRUARY 11, 2025/akr