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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 874/2025 & CM APPL. 28156/2025**
RAJENDRA SINGHAL

.....Petitioner

Through: Mr. Amrit Singh, Advocate.

versus

MITHILESH ROY & ORS.

.....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

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08.05.2025

1. Petitioner-Rajendra Singhal (defendant No.1 before the learned Trial Court) is defending a suit which seeks permanent and mandatory injunction with respect to some illegal construction carried out on the roof of the suit property.
2. Admittedly, the defence of defendant No.1 has already been struck off and his application seeking setting aside *ex-parte* order and restoration of defence is still pending adjudication before the learned Trial Court.
3. It is submitted that some technical objection was pointed out and after taking care of such objection, the application is to be re-filed very shortly.
4. Fact, however, remains that the defendant No.1 has also filed an application under Order VII Rule 11 CPC seeking rejection of plaint and in view of the observation appearing in order dated 01.05.2025, defendant No.1 apprehends that his such application shall not be considered unless and until the *ex-parte* order is set aside and their defence is restored.

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5. Needless to say that when the Trial Court considers any such application moved under Order VII Rule 11 CPC it, merely, confines itself to the basic averments made in the plaint and supporting documents and, even if the defendant is *ex-parte* or his defence is struck off, the abovesaid application can still be considered.
6. Learned counsel for petitioner, in view of the abovesaid observation made by this Court submits that he does not press his present petition any further.
7. Since the abovesaid application moved under Order VII Rule 11 CPC is pending adjudication before the learned Trial Court, irrespective of the fact that the defendant is *ex-parte*, the learned Trial Court would consider the abovesaid application and would dispose it of in accordance with law after giving due opportunity of hearing to both the sides.
8. Petition is, accordingly, disposed of as not pressed.
9. Pending applications, if any, stand disposed of.

MANOJ JAIN, J

MAY 8, 2025/ss/pb