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

+ RSA 34/2023

BIMLA DEVI & ANR.

..... Appellants

Through: Mr. K. C. Mittal and Mr. Yugansh
Mittal, Advs.

versus

SUBHASH SINGH & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

17.02.2023

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[The proceeding has been conducted through Hybrid mode]

CM APPL. 8018/2023

1. Exemption is allowed, subject to all just exceptions.
2. However, the certified copies of the exempted documents may be filed within four weeks from today.
3. The application stands disposed of.

RSA 34/2023 & CM APPL. 8017/2023 (Stay)

4. The appellants challenge the impugned judgment and decree dated 31.10.2022 in RCA No. 11/19 titled "*Subhash Singh & Ors. Vs. Bimla Devi & Anr.*" passed by the learned First Appellate Court whereby the judgment and decree dated 22.12.2018 passed by the learned Trial Court in new CS No. 59901/16 titled "*Sh. Subhash Singh & Ors. Vs. Smt. Bimla & Ors.*" was reversed.
5. Mr. Mittal, learned counsel appearing for the appellant draws attention of this Court to page 63 of the paper book particularly to para (iii) which is the judgment of the First Appellate Court whereby



the First Appellate Court has made an observation in respect of the GPA dated 24.04.2001 and recorded a finding that GPA as such could not have been executed since the appellants therein were not the owners of the said agricultural land.

6. Learned counsel submits that the said finding is not only perverse but contrary to the facts stated in the plaint itself and on that basis, he draws attention of this Court to page 120 of the paper book, which is the part of the plaint and to the last four lines of para 2 of the plaint whereby the plaintiff himself stated that respondent/plaintiff Nos. 1 & 2 had executed a GPA in favour of the present appellant who is a defendant before the learned Trial Court. That apart, learned counsel draws attention of this Court to page 122 where the specific admission that the sale deed dated 21.06.2001 having been executed by the appellant/defendant is also admitted.

7. Mr. Mittal submits that the assertions made by the plaintiff in the plaint was that the said sale deed was executed after the GPA dated 24.04.2001 was cancelled. However, Mr. Mittal submits while drawing attention of this Court to page 121 of the plaint whereby the respondent/plaintiff has admitted that the notice giving the factum of the cancellation of the GPA was itself issued on 20.03.2003 and was subsequent to the execution of the sale deed. Mr. Mittal submits that the finding is not just perverse but also contrary to the facts as stated by the respondent/plaintiff on record.

8. Issue notice. Upon the appellant taking steps within one week, let notice be issued to the respondents through all permissible modes.

9. In the meanwhile, the operation of the impugned order shall



remain stayed till the next date of hearing.

10. List for framing of substantial questions of law, if any, on 01.08.2023.

TUSHAR RAO GEDELA, J

FEBRUARY 17, 2023

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