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

+ **FAO 58/2024**

VIKRAM JAIN

..... Appellant

Through: Mr. Sanyam Khetarpal, Ms. Vishakha
Panchal and Mr. Nitai Agarwal,
Advs.

versus

SWARAN JAIN & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **21.02.2024**

CM APPL. 10483/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

FAO 58/2024, CM APPL. 10482/2024—stay

3. The present first appeal under Section XLIII (1)(r) of Code of Civil Procedure (“CPC”), 1908 has been filed impugning the order dated 22.11.2023 passed by the learned Additional District Judge-03, North-West district, Rohini Courts, Delhi in CS No.702/2023 titled as “*Vikram Jain vs. Swaran Jain and Ors.*”, whereby the application moved on behalf of the appellant herein under Order XXXIX Rule 1 and 2 of CPC, 1908 seeking restraining order against the respondents was dismissed. The appellant herein is the plaintiff before the learned Trial Court.

4. Learned counsel for appellant submits that the appellant had filed a suit for declaration, partition, possession, rendition of account, permanent



injunction and recovery on 10.08.2023. However, the learned Trial Court erred in dismissing the application moved on behalf of the appellant under Order XXXIX Rule 1 and 2 CPC.

5. On taking steps, let service be effected upon the respondent through all permissible modes including via approved courier service, returnable on 26.09.2024.

SHALINDER KAUR, J.

FEBRUARY 21, 2024/SDS/DP