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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 441/2023 I.A. 13786/2023 I.A. 29995/2024 I.A. 32144/2024
I.A. 1216/2025
SH. SUBHASH CHANDRA JARODIAPlaintiff

Through: Mr. Vikramjeet Singh, Advocate with
plaintiff in person.

versus

SH. VIJAYINDER KUMAR & ORS.Defendant
Through: Mr. Ashutosh Nagar, Mr. Ishan
Harlalka, Mr. Kunal Taneja for D-1.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
23.01.2025

1. The Court by judgment dated 05th November 2024, recorded that plaintiff was not in actual physical possession of the suit property and plaintiff had conceded to that on 21st August 2024.
2. Since defendant no.1 propounded a registered Gift Deed dated 03rd September 2021, by which physical possession was with defendant no.1, and the issue of constructive possession would not arise for plaintiff. Plaintiff was liable to pay *ad-valorem* Court Fee.
3. One issue which was left to be argued was encapsulated in paragraph 29 of the said decision with respect to omission to seek consequential relief for possession, in view of which suit for declaration would not be maintainable



under Section 34 of Specific Relief Act, 1963, and is liable to be dismissed under Order VIII Rule 11(d) of Code of Civil Procedure, 1908.

4. Counsel for plaintiff has placed reliance on two decisions - ***Frost International Limited v Milan Developers and Builders Pvt. Ltd. & Anr.*** (2022) 8 SCC 633 and ***Akkamma and Ors v Vemavathi & Ors.***, (2021) 18 SCC 371.

5. Counsel for defendant seeks some time to respond.

6. Accordingly, list on 24th January, 2025.

7. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 23, 2025/RK/tk