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

+ **RFA 869/2023 & CM APPL. 55108/2023**

SHRI DHARAMVIR SINGH GAHLAN & ORS.Appellants

Through: None

versus

VIRESH & ANR.Respondents

Through: Mr. M. P. Arora and Mr. Shiv
Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

19.02.2024

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CM APPL. 801/2024 (Direction for deposit of the decretal amount)

1. The instant application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the applicants/respondents seeking the following relief:

“That in view of the aforesaid facts and circumstances, it is respectfully prayed that the appellants may be directed to deposit the decretal amount not from the funds of the Society but from their own funds severally and jointly.”

2. Learned counsel appearing on behalf of the respondents submitted that the learned ADJ-03, South West District, Dwarka Courts, Delhi in Civil Suit No.913/2018 titled as Viresh & Anr. Vs. Dharamvir Singh Gahlan & Ors., had passed a judgment dated 12th July, 2023 in favour of respondents



herein, directing the present non applicants/appellants to jointly and severally pay a sum of Rs.6,00,000/- along with 6% interest and costs, as damages on account of defamation. The appellants had preferred the instant regular first appeal against the above said judgment.

3. It is submitted that the Predecessor Bench of this Court *vide* Order dated 20th October, 2023, had directed to stay the effect and operation of the impugned judgement subject to the non applicants/appellants depositing the entire decretal amount before the Registrar General of this Court.

4. It is submitted that as per the above stated directions, the appellants deposited the decretal amount i.e., Rs. 10,00,000/- with the Registrar General of this Court, however, it has been alleged by the applicants/respondents that the said amount has been misappropriated from the funds of a society namely 'Dr. R.M.L.H & NHE CGHS Ltd'.

5. It is submitted that the aforesaid society consists of a total of 260 members, wherein, both the appellants and the respondents are members. Moreover, at the time of defamation of the respondents, four of the appellants were officer bearers and seven were members of the Managing Committee.

6. It is submitted that the damages granted by the learned ADJ *vide* the impugned judgment were to be paid by the appellants jointly and severally in their personal capacity and not from the funds of the society, therefore, the funds of the society cannot be utilised by the appellants for personal purposes since they belong to every member of the society and not only to the appellants.

7. Therefore, it is submitted that this Court may direct the non applicants/appellants to deposit the decretal amount from their own funds



and not from the funds of the aforementioned society.

8. Heard the learned counsel for the applicants/respondents and perused the record.

9. It has been alleged by the respondents that the entire decretal amount i.e., Rs. 10,00,000/- deposited by the non-applicants/appellants with the Registrar General of this Court has been misappropriated from the funds of the aforementioned society. In view of the same, the applicants/respondents have prayed that directions may be passed against the non-applicants/appellants to deposit the said decretal amount from their own funds.

10. In view of the submissions advanced by the respondents, this Court is of the considered view that adjudicating upon the issue as to what may be the source of the money deposited before the Registrar General of this Court is not the subject matter of this Court and this Court cannot pass any such directions as the same is a triable issue which requires detailed deliberation of facts and law.

11. This Court does not find any merit to allow the instant application since it is not the appropriate authority before which the above stated issue may be agitated and the respondents are at liberty to address the same before an appropriate forum.

12. In view of the aforesaid submissions made by the learned counsel for the respondents, this Court does not find any merit in the instant application and the same is liable to be dismissed.

13. Accordingly the instant application stands dismissed.

RFA 869/2023

List on 11th March, 2024 i.e. the date already fixed before the



Registrar General.

CHANDRA DHARI SINGH, J

FEBRUARY 19, 2024
gs/da

Click here to check corrigendum, if any