



\$~A-17

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

+ C.R.P. 235/2024

ADITYA DAVE & ORS.

.....Petitioners

Through: Mr.Saurabh Prakash and Mr.Utsav
Jain, Advocates

versus

TRANS ASIAN INDUSTRIES EXPOSITIONS PVT LTD & ORS.

.....Respondents

Through: Ms.Shilpa Ohri, ASC for R-2/MCD

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **06.08.2024**

CM APPLs. 44673-74/2024 (Exemptions)

Exemptions allowed subject to just exceptions.

The applications stand disposed of.

C.R.P. 235/2024

1. The instant civil revision petition under Section 115 of the Code of Civil Procedure, 1908 has been filed on behalf of petitioners seeking the following reliefs:-

“a) Set aside order dated 21.05.2024 in CS DJ/113/2017 passed by Additional District Judge-05 (South), Saket Courts/New Delhi;

b) Reject the Complaint/amended complaint filed by the Respondent no.1; and

c) Pass any further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”



2. Learned counsel appearing on behalf of petitioners submitted that the learned Trial Court has decided their application under Order VII Rule 11 of the Code of Civil Procedure, 1908 without considering the fact that in the amended plaint itself, the respondent No.1 had admitted that the constructed area i.e. the ground floor and the *barsati* area belongs to the common area. In support of his argument, he has placed reliance upon paragraph No.2 of the amended plaint. It is submitted that while passing the impugned order, the learned Trial Court has completely ignored the said factum. It is further submitted that the impugned order was passed without considering the facts and documents as stated in the amended plaint and the same is contrary to the law. Thus, the impugned order passed by the learned Trial Court is passed without application of judicial mind and is liable to be set aside.

3. Heard and perused the record.

4. This Court is of the view that there is force in the arguments of learned counsel appearing on behalf of the petitioners and the matter requires consideration.

5. Learned Standing counsel for the respondent No.2 appeared on advance notice.

6. On filing PF within a week, issue notice to other respondents through all permissible modes, returnable before the Joint Registrar (Judl.) on 10th September, 2024.

CHANDRA DHARI SINGH, J

AUGUST 6, 2024

dy/ryp

[Click here to check corrigendum, if any](#)