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

% Judgment delivered on: 10th November, 2021

+ **FAO 249/2021**

RAVINDER KUMAR AHUJA Appellant

versus

MST. SAHIDA AHMAD AND ORS Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Abhishek Singh, Mr. J. Amal Anand,
Mr. Elvin Joshy, Ms. Kirtika Chhatwal,
Advocates with Appellant in person

For the Respondents : Mr. Hem C. Vashisht, Advocate for R-1,
4,5, 7& 8

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

CM APPLN. 39693/2021 & 39695/2021 (Exemption)

Allowed, subject to all just exceptions.

FAO 249/2021 & CM APPLN. 39692/2021 (stay) & 39694/2021

1. The hearing was conducted through video conferencing.
2. Appellant impugns order dated 01.11.2021 whereby the application of the appellant under Order 39 Rules 1 and 2 CPC has been dismissed holding that the relief sought in the application is beyond the subject matter

of the suit.

3. Learned counsel appearing for the appellant submits that the trial court has erred in holding that the relief claimed is beyond the subject matter of the suit, in as much as, in prayer (ii), an injunction has been sought against the respondents, *inter-alia*, from holding any function, unlawful assembly or doing any illegal act on any part of the property.

4. Learned counsel for the appellant submits that the appellant is in possession of the entire property and has been continuously using the same from the very inception till date. He further submits that proxy litigations were also filed by the respondents unsuccessfully before several forums.

5. He submits that in case the respondents are not restrained from holding any marriage function in the subject property, grave prejudice would be caused to the appellant.

6. Issue notice. Notice is accepted by learned counsel appearing for respondent no. 1, 4, 5, 7 & 8. Learned counsel appearing for respondent no. 1, 4, 5, 7 & 8 submits that they are ones who are proposing to hold the marriage function of respondent no. 4.

7. Learned counsel, under instruction, submits that in view of the controversy raised and without prejudice to their rights and contentions, they shall not hold the proposed marriage function on the subject property.

8. The statement is taken on record.

9. In view of the above, appeal is disposed of binding the respondents to their statements that no marriage function shall be held in the subject premises as proposed.

10. This would, however, be without prejudice to the rights and contentions of the parties and would not, in any manner, influence the trial court in the final adjudication of the suit.

11. It is pointed by learned counsel appearing for the appellant that the wall adjoining the servant quarters has been broken by the respondents for the purposes of bringing in their guests from that side.

12. This is disputed by learned counsel appearing for the respondents who submits that the wall has fallen down on account of natural circumstances.

13. Without getting into the said controversy, appellant is permitted to have the said wall repaired.

14. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J

NOVEMBER 10, 2021

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