

(2018) 12 DEL CK 0159

In the Delhi High Court

Case No : First Appeal from Order No. 356 Of 2018, Civil Miscellaneous No. 30642 Of 2018

M/S Tradewell Portfolios Pvt Ltd & Anr

APPELLANT

Vs

Harsh Vikas Manchanda & Ors

RESPONDENT

Date of Decision : 10-12-2018

Acts Referred:

Code of Civil Procedure, 1908 — Section 151, Order 39 Rule 1, Order 39 Rule 2, Order 1 Rule 10, Order 39 Rule 10

Citation : (2018) 12 DEL CK 0159

Hon'ble Judges : Vinod Goel, J

Bench : Single Bench

Advocate : Jayant Kumar Mehta, Sukant Vikram, Abhinav Ankit, Vaibhav Mahajan, Ravneet Singh, Shalabh Singhal

Final Decision : Disposed Off

Judgement

1. The impugned order dated 13.07.2018 passed by the court of learned Additional District Judge-02, East District, Karkardooma Courts, Delhi ('ADJ') in CS No.758/2017 titled as M/s. Tradewell Portfolios Pvt. Ltd. & Anr. Vs. Shri Harsh Vikas Manchanda & Anr., is the subject matter of challenge in this appeal filed by the appellant/plaintiff.
2. While disposing of the application under Order XXXIX Rule 10 of the Code of Civil Procedure, 1908 ('CPC') filed by the respondent no.3/defendant no.3 and another application under Order I Rule 10 read with Section 151 CPC filed on behalf of the respondents no.1 and 2/defendants no.1 and 2, the learned ADJ directed that the respondent no.3/defendant no.3 be deleted from the array of parties and vacated the interim injunction granted on 06.12.2017 and framed the preliminary issue "Whether this Court has jurisdiction to try and decide the present suit in view of the proceedings before the Ld. NCLT, Delhi?".
3. Learned counsel for the appellant submits that the arguments on the injunction application were never heard and the learned ADJ by impugned order

has vacated the injunction granted earlier to them.

4. In view of the above and with the consent of the parties, this appeal is disposed of in the following terms: -

i) It is directed that the Ld. ADJ shall hear arguments of both the parties on the preliminary issue framed on 13.07.2018 which shall be decided within 30 days;

ii) in case the learned ADJ finds that the civil court has jurisdiction to try the civil suit, the learned ADJ shall hear the parties on the application filed by the appellant/plaintiff under Order XXXIX Rule 1 and 2 CPC. The learned ADJ shall decide the said application within another 30 days after the preliminary issue is decided. Till then, the injunction granted by the learned ADJ 06.12.2017 shall continue.

5. The application, being CM No.30642/2018, is disposed of.