

04.09.2023

Present: Sh. Shubham Aggarwal, Ld. Counsel for the plaintiff.
Proxy counsel for the defendant.

Ld. Counsel for the plaintiff has filed affidavit of admission/denial of documents wherein all the documents filed by the defendant are denied. The same is taken on record.

Today the matter is listed for framing of issues.

I have heard both the parties and with their assistance, following issues are framed for adjudication:-

1. Whether the plaintiff is entitled to a decree of possession in respect of the suit property at Ground Floor and Ist Floor of the property bearing No. XV/3624-34, Dariba Pan, Paharganj as shown in red colour in the site plan, as prayed for? OPP

2. Whether the plaintiff is entitled to a decree of perpetual injunction with respect to the suit property, as prayed for? OPP

3. Whether the plaintiff is entitled to a decree of mesne profits @ Rs. 15,000/- per month against the defendants commencing w.e.f November-2019 and till the time of handing over of the actual peaceful and physical possession of the suit property, as prayed for? OPP

4. Whether the defendant has become the owner of the suit property i.e. 3624-34, Dariba Pan, Paharganj as shown in the site plan by virtue of adverse possession as claimed in para 4 of the WS filed by the defendant no. 1,2, 10, 11, 12, 13 and 15, as prayed for? OPD

5. Whether the present suit is liable to be stayed under Section 10 of CPC as mentioned in Para 3 of the WS no. 1, 2, 10, 11, 12, 13 and 15 since the plaintiff has filed the present suit during the pendency of the previous suit being CS No. 60/2021 claiming the same relief as claimed in the plaint, as prayed for? OPD

***6. Whether the present suit as filed by the plaintiff is barred by virtue of Order 2 Rule 2 CPC and as claimed in Para 4 of the WS filed by defendant no. 3 to 9 and 14, as prayed for?
OPD***

7. Relief, if any.

No other issue arises or pressed for.

At this stage, Ld. Counsel for the plaintiff submits that issue in respect of Section 10 of CPC should not be framed as all the matters have been combined together and are pending adjudication before the same very Court.

Accordingly, I treat the issue with respect to the objections under Section 10 CPC as a preliminary issue.

List for arguments on the preliminary issue on **16.11.2023**.

Both the parties are directed to file written synopsis alongwith relied upon judgments.

(Sachin Sood)

ADJ- 01 (Central),

THC, Delhi,04.09.2023