

C.S. No.: 1156/16

09.03.2016

Present:- Sh. Siddharth, ld. counsel for the plaintiff along with plaintiff in person.

Sh. Roop Ram Sarwal, ld. counsel for defendants no.1 and 4 along with defendants no.1 and 4 in person.

Defendant no.2 is exparte.

None for defendant no.3.

Ld. counsel for defendants no.1 and 4 filed his Vakalatnama. The same is taken on record.

Ld. Counsel for defendants no.1 and 4 submits that he is not appearing on behalf of defendant no.3 and is appearing on behalf of defendants no.1 and 4 only.

Perusal of the record shows that there is no Vakalatnama on behalf of defendant no.3 till date. None appeared on behalf of defendant no.3 since morning. In these circumstances, **defendant no.3 is proceeded exparte.**

Ld. Counsel for the plaintiff submits that his application under Order 39 Rule 1 and 2 CPC is pending adjudication.

Perusal of the record shows that there are two applications under Order 39 Rules 1 and 2 CPC, one dated 04.08.2011 and other similar application dated 22.11.2011. Ld.counsel for the plaintiff fairly submits that he wishes to withdraw the application dated 04.08.2011.

On the submission of the counsel for the plaintiff, **the**

application under Order 39 Rules 1 and 2 CPC dated 04.08.2011 is dismissed as withdrawn. Application is disposed off accordingly.

Arguments on the application under Order 39 Rules 1 and 2 CPC dated 22.11.2011 heard.

During the course of arguments on the application under Order 39 Rules 1 and 2 CPC dated 22.11.2011, ld. Counsel for defendants no.1 and 4 submits that without prejudice to the rights and contentions of defendants no.1 and 4, defendants no.1 and 4 have no intention to sell, mortgage or create third party interest or part with the possession of the suit property i.e. 178-A/5, Lalita Park, Laxmi Nagar, Delhi-92 as shown in the site plan till the disposal of the present suit.

Separate statement of the ld. Counsel for defendants no.1 and 4 is recorded.

Ld. counsel for the plaintiff submits that in view of the separate statement of the ld. Counsel for defendants no.1 and 4, his application under Order 39 Rule 1 and 2 CPC be disposed off as satisfied.

In view of the separate statement of defendants no.1 and 4 and the submission made by ld. counsel for the plaintiff, **defendants no.1 and 4 is hereby restrained from selling, mortgaging or creating third party interest or parting with the possession of the suit property i.e. 178-A/5, Lalita Park, Laxmi Nagar, Delhi-92 as shown in the site plan till the disposal of the present suit. Accordingly, the application under Order 39 Rule 1 and 2 CPC is disposed off.**

Re-notify this matter for reply to the application under Section 340 Cr.P.C., admission/denial of documents and framing of issues on 17.05.2016. Parties are directed to appear in person.

(Anurag Sain)
ADJ-2, East, Karkardooma Court,
Delhi/09.03.2016