

18.08.2023

Pr. Sh. Vishal Gera, Id. Counsel for the plaintiff.

Sh. F.S. Chauhan, Ld. Counsel for the defendants with the defendant No.2.

Heard arguments on the applications under Order I Rule 10, CPC for arraying one Smt. Mehmooda also DDA through its Vice Chairman, Vikas Sadan, INA, New Delhi, and further application under Order VII Rule 11 CPC. Sh. Chauhan also submits that the plaintiff has never been in actual physical possession of the property in question and even has not sought relief of declaration. He further draws my attention to Section 110 of the I.E. Act, 1872, and all the defendants are continuously in actual physical possession of the property since 27.02.1995. He also draws my attention to certain possession certificate and explains that Sh. Riyaz Ahmed, son of Sh. Mohd. Raj-jat, was immediate uncle of the defendants, namely, Faiz Ahmed and Iqbal Ahmed, i.e., defendants No.1 and 2 respectively, and defendant No.3 is mother of the other defendants.

Sh. Gera submits that the plaintiff Mohd. Afzal Khan came to actual physical possession of the flat in question on 12.03.2009, on purchasing it through usual sale documents. He further draws my attention to presumption under Section 114 (e) of the I.E. Act, 1872. He also submits that the proposed defendants, sought to be arrayed, are neither necessary nor proper parties and the application has been moved just to derail the proceedings, on the other hand, Sh. Chauhan

submits that the presence of both are required to explain the question of title as the report submitted by the DDA, in compliance to the order passed by this Court, is not comprehensive.

Both the sides are directed to submit brief arguments only on the question of possession, respectively, claimed to have been gained from the date and up to when or till date, with exchange of copies in advance and against receipt, within a week, for further consideration in the matter on 02.09.2023.

(Sanatan Prasad)
Addl. District Judge-02 (East)
Karkardooma Courts/18.08.2023