

15.04.2023

Present: Sh. G. K. Sharma, Ld. Counsel with Plaintiff.

Sh. Rakshpal Singh, Ld. Counsel for the defendants.

Heard arguments by Sh. Singh, who submits that the defendants no. 1, 2 & 3 are in actual physical possession of the property, sought to be partitioned, at 200-A, Gali No.-02, New Lahore, Khasra number 38/45, Delhi-31, shown in red colour and it is not occupied by any of the tenant as claimed by the plaintiffs in paragraph no. 12 of the plaint. He further submits that the property stands in the name of the defendant no. 3 through usual documents of sell, executed by Smt. Chandrakanta, on 17.04.2008, who was the mother to the plaintiffs as well as the defendant no. 3 and grand mother of the defendant no. 1 & 2 and the plaintiffs have inserted a manipulated paragraph in the plaint to avoid payment of Court Fees on ad-valorem basis, as per market value and even have not paid requisite Court Fees for the relief of rendering of accounts.

Sh. Sharma, on the other hand, draws my attention to the paragraph number 12 of the Written Statement, on merits, in reply to the corresponding paragraph in the plaint and he states that mere evasive denial can not be considered a denial within the meaning of the provisions of Order VIII Rule 3, CPC and denial, if not specific, amounts to admission. He also refers to paragraph no. 22 of the plaint, valuing the suit and the last portion of the paragraph number 3 of the authority, relied by him.

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Sh. Singh, rebuts the contention that if the submission of Sh. Sharma is true, even then the paragraph no. 12, itself, states that it is the defendants, who are receiving the rent and even if the averments are taken to be true then also the plaintiffs have not placed on record any document regarding rent or valuation.

Put up on **27.05.2023** for further consideration/ clarification/ order in the matter.

(Sanatan Prasad)
Addl. District Judge-02 (East)
Karkardooma Courts/15.04.2023