

11.11.2025

Present : Sh. J. M. Mittal, Ld. Counsel for the plaintiffs.
Sh. Atul Sharma, Ld. Counsel for the defendant
(through VC).

1. Replication to written statement of defendant is filed on behalf of the plaintiffs. Spare copy of the same is placed on record to be supplied to the defendant.
2. Ld. counsel for the plaintiff and defendants seek time to file affidavit of admission-denial of documents.
3. At this stage, Ld. counsel for the plaintiffs presses for application under Order XXXIX Rule 1 and 2 r/w Section 151 CPC filed on behalf of the plaintiff.
4. Arguments heard on application under Order XXXIX Rules 1 and 2 r/w Section 151 CPC.
5. It is a case of the plaintiffs that the plaintiffs are the owners of the suit property bearing no. 54, Second Floor, Back Side Flat, New Lahore, Shastri Nagar, Delhi-110031 (hereinafter referred to as "the suit property") by way of registered sale deed dated 21.01.2009 registered on 28.01.2009; that defendant was inducted as tenant in the said premises on 01.02.2016 at a rent of Rs. 6000/- per month excluding electricity and other charges for residential purposes only; that now the rate of Rent of the said premises is Rs. 9,500/- per month excluding electricity and other

charges; that due to default in making payment of rent by the defendant since 01.06.2023, tenancy of the defendant was terminated vide legal notice dated 29.07.2024 from the midnight between 31.08.2024 and 01.09.2024; that the defendant sent a false reply 03.08.2024 and a false corrigendum dated 23.08.2024; that the defendant was in arrears of Rs. 1,42,500/- being rent of 13 months from 01.06.2023 to 31.08.2024 @ Rs.9,500/- per month; that after the termination of the tenancy of the defendant, the defendant is in illegal and unauthorized possession of the suit property. Hence, the plaintiffs have filed the present suit for possession, recovery of arrears of rent and damages / mesne profits.

6. In view of the above submission, it is prayed that the application under Order 39 Rule 1 & 2 of CPC filed on behalf of the plaintiffs may be allowed and the defendant, his agents, associates, etc., may be restrained from creating any third-party interest in the suit property in any manner whatsoever.

7. The defendant opposed the instant application by filing a reply to the same and relying on the contents of the written statement. In the written statement, the defendant contest the present suit by averring that initially the suit property was given by the plaintiffs to the defendant on security basis and an amount of Rs. 5,00,000/- was received by the plaintiffs as security amount eight years back and it was decided that Plaintiffs would return the aforesaid security amount to Defendant without any interest at the time of vacating of the aforesaid flat by Defendant; that the Defendant resides in the said premises without paying

any rent or use & occupation charges and only electricity and water charges paying by Defendant as per consumption; that the plaintiffs avoided executing of any security agreement on one pretext or the other but the plaintiffs acknowledged receiving the security amount of Rs. 5,00,000/- on a paper in the presence of his wife and one of the friend of Defendant, who has now expired, and one more friend was also present there at the house of defendant; that later the plaintiffs advised the Defendant to purchase the suit property and Defendant got ready for the same and sale consideration for the same was agreed at Rs. 12,00,000/- and Plaintiffs further received an amount of Rs. 5,00,000/- from Defendant in cash and further acknowledge the same at the house of Defendant in presence of one of the friends of Defendant and his family members and it was agreed between both Plaintiffs and Defendant that balance amount of sale consideration i.e. Rs. 2,00,000/- to be paid by Defendant at the time of execution of Sale Documents in favor of Defendant/his associates or any family member(s) within six (6) months; that despite request of the defendant to execute the Sale Documents upon receiving balance sale consideration amount of Rs. 2,00,000/- (Rupees Two Lakhs), the plaintiff refused to execute the sale documents in favour of defendant.

8. Submissions heard. Record perused.

9. It is seen that plaintiffs have placed on record a registered sale deed dated 28.01.2009 by way of which, plaintiffs are the owners of the suit property, and it is the case of the plaintiffs that the defendant was their tenant in the suit property and the said

tenancy of the defendant was terminated vide legal notice dated 29.07.2024. Per contra, the defendant asserts that plaintiffs agreed to sell the suit property to the defendant for a sale consideration of Rs. 12 lakhs, out of which the plaintiffs have received Rs. 10 lakhs from the defendant.

10. Considering the fact that there is a registered sale deed in favour of the plaintiffs in respect of the suit property, the plaintiffs have a prima facie case in the present matter. Further, the balance of convenience also lies in favour of the plaintiffs as the defendant shall not be inconvenienced if the instant application is allowed. Further, if the defendant is not restrained from creating third party interest in the suit property, irreparable loss shall be caused to the plaintiffs.

11. In view of the totality of facts and circumstances of the present case, the Court is of the view that the suit property need to be preserved till the complete adjudication of the dispute between the parties in order to avoid multiplicity of litigation and multiplicity of parties.

12. At this stage, Ld. counsel for the defendant, upon instruction from the defendant, submits that the defendant shall not create a third-party interest of any manner in the suit property and has no objection if the instant application under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC filed by the plaintiff is allowed.

13. In view of aforesaid discussion, **application under Order XXXIX Rule 1 & 2 r/w Section 151 of CPC stands allowed** and

the defendant his agents, family members, associates etc. are restrained from selling, transferring, alienating and from creating third party interest of any manner whatsoever in respect of the suit property till the pendency of the present suit.

14. Put up for filing of affidavit of admission-denial of documents on behalf of the defendant / framing of issues on **19.01.2026.**

(SOMITRA KUMAR)
DJ-06, EAST/ KKD COURTS
DELHI/11.11.2025 ^(R)