

C. S. No. 746/17

17.01.2018

Present: Counsel for plaintiff.

Counsel for defendant No. 3 and 4 with defendant No. 3 and 4.

Defendant No. 1 and 2 are unserved.

Defendant No. 1 is the father of defendant No. 3 and defendant No. 2 is brother of defendant No. 3.

Heard and perused.

Earlier suit for specific performance was filed by the plaintiff against defendant No. 1 & 2 but the defence taken by defendant No. 1 and 2 was that due to subsequent developments, settlement was arrived at between the parties for transferring the upper ground floor but the possession could not be handed over despite giving time to defendant No. 1 & 2 though the documents i.e. sale deed was executed by defendant No. 1 in respect of upper ground floor. As the said suit relate to ground floor, that suit was withdrawn with liberty to file a fresh suit and it is in these circumstances, that the present suit has been filed, for seeking possession of the said upper ground floor as possession was not handed over as defendant No. 3 and 4 were residing in the said property though defendant No. 1 & 2 has assured to get it vacated from defendant No. 3 and 4 who were son and grandson respectively of defendant No. 1.

Short adjournment is sought on behalf of defendant No. 3 and 4 for filing the written statement and it is submitted that they would not be appearing in this case on behalf of defendant No. 1 & 2.

Defendant No. 1 & 2 are unserved. As per report of the process server, defendant No. 3 met in the premises and refused to receive the

summons of defendant No. 1 and 2 and stated that they were not residing at the given address. The summons sent through registered post also returned back unserved.

It is important to note that summons through registered post sent to even defendant No. 4 who is appearing, has returned unserved being unclaimed despite three visits and delivery of intimation. Plaintiff is directed to take fresh steps for serving the defendant No. 1 & 2.

In view of background of this case, defendant No. 3 and 4 are restrained from creating any third party interest till next date of hearing.

Put up on 14.03.2018.

(Vipin Kumar Rai)

Additional District Judge-03
East District, Karkardooma Courts
Delhi.
17.01.2018

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