

03.05.2025

Present: Sh. Rukhsar Ahmed, Ld. counsel for plaintiff.
Sh. Vivek Kumar, Ld. counsel for defendant.

1. Defendant has filed written statement along with reply to interim application of plaintiff. Defendant has also moved an application seeking condonation of delay in filing of written statement. Copy supplied.
2. After some arguments, counsel for plaintiff submits that he has no objection in case written statement of defendant is taken on record subject to heavy cost as there has been a substantial delay of at least three months in filing of written statement.
3. On the other hand, counsel for defendant claims that due to old age of defendant, written statement could not be filed in time.
4. Considering the concession given by counsel for plaintiff and keeping in mind the submissions made by counsel for defendant, written statement of defendant is taken on record subject to payment of cost of Rs.15,000/- to be paid to plaintiff. Application is disposed off.
5. At this stage, plaintiff has filed replication. Copy supplied.
6. Defendant has also moved an application u/O VII Rule 11 CPC. Copy supplied.
7. Arguments on the said application heard with the consent of parties.
8. A perusal of the said application shows that the grounds taken

therein are essentially the defence of the defendant taken in the written statement. It is settled law that while deciding an application u/O VII Rule 11 CPC, only the plaint with documents is to be read. Nothing is pleaded in the application to demonstrate how the suit of plaintiff (wherein she is seeking possession of property u/s 6 of Specific Relief Act) can be said to be barred by any law or there is any non-disclosure of cause of action. Thus, in my humble opinion, the application is misconceived. It is dismissed.

9. At this stage, counsel for plaintiff presses his application u/O XXXIX Rule 1 & 2 CPC. Parties claim before this court that in a connected suit bearing no. CS 218/24, a *status quo* order has been passed directing all the parties herein to maintain *status quo* and parties submit that a similar order may be passed in this case.
10. Accordingly, with the consent of parties, parties in suit are directed to maintain *status quo* with regard to possession, title and construction of the property till final disposal of the suit.
11. Signatures of respective counsel for the parties are taken on this order-sheet as proof of consent given qua the aforesaid order made.
12. Application u/O XXXIX Rule 1 & 2 CPC stands disposed off.
13. Parties do not press for admission/denial of documents.
14. Pleadings in this matter are complete and thus, based on pleadings following issues are framed.
 - (i) **Whether the plaintiff was in actual and physical possession of the suit property as described in prayer clause (i) of the plaint ?**
OPP