

CS DJ 512/21
ADITYA GUPTA Vs. SH NARESH KUMAR

02.08.2022

Present: Sh Naveen Kumar, clerk for ld. counsel for plaintiff.
Sh Kapil Yadav ld counsel for D-1.
Sh Abhishek, proxy counsel for D-2/NDMC.

Heard. Perused.

Replication qua D-2 filed. Same is taken on record.

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On the basis of above pleadings, following issues are framed:

- (a) Whether the plaintiff is entitled for the decree of mandatory injunction directing the defendant no. 1 to remove the entire offending construction and to restore the plaintiff's unhindered access to common passage towards Eastern side alongwith common passage towards western side as well as open portion towards northern side of the subject property i.e. B-2/6A, Model Town-II, Delhi, as prayed for? **OPP**
- (b) Whether the plaintiff is entitled for a decree of permanent injunction restraining the defendant no. 1 from carrying out any kind of construction or creating any kind of hinderance in access and usage of the plaintiff qua the common passage towards Eastern side alongwith common passage towards western side as well as open portion towards northern side of the aforesaid subject property, as prayed for ? **OPP**
- (c) Whether the plaintiff is entitled for a decree of mandatory

injunction thereby directing defendant no. 2 to take action against defendant no. 1 for carrying out offending construction, as prayed for ? **OPP**

(d) Whether the suit is not maintainable against the defendant no. 1 as there is no cause of action and is liable to be dismissed u/o VII Rule 11 CPC? **OPD1 and OPD2.**

(e) Whether the suit is not maintainable against the defendant no. 2 as the present suit is liable to be dismissed as it is barred by provisions of section 447/448 of DMC Act ?
OPD2

(f) Relief.

No other issue arises or is pressed for by the parties.

Let list of witnesses alongwith affidavits of the witnesses be filed by both the parties within 15 days from today with advance copy to the opposite party.

Put up for PE on **16.11.2022.**

Steps be taken accordingly for summoning of witnesses for leading PE.

(Surender Mohit Singh)
ADJ-04, North, Rohini Courts,
Delhi/02.08.2022