

CS No. 387/18

Quyyum Qureshi Vs. Khushnoda Begum

13.03.2019

Present : Parties with their respective counsels.

Replication filed. Pleadings are complete.

An application u/O XXXVIII R 5 CPC filed by plaintiff is pending disposal whereby the plaintiff has sought attachment of property of defendant bearing no. AJ-25-E, Shalimar Bagh, New Delhi before passing judgment.

Arguments heard.

The case of the applicant is that he has the apprehension that the defendant in order to avoid the pendency of this case and thereafter the execution of the decree likely to be passed, may flee away by disposing off all her assets and properties.

Application is opposed on behalf of the defendant.

On perusal of contents of the application, it is found that only bare averments have been made by the applicant regarding his apprehension qua defendant without any basis. There is no specific contention or documentary material to show that the defendant is trying to flee away after disposing her properties. The provisions of order XXXVIII CPC are special provisions which cannot be invoked in a casual manner.

Considering the overall facts and circumstances, the above application is found to be devoid of merits and same is accordingly dismissed.

No admission/denial is to be conducted as stated.

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

1. **Whether the plaintiff is entitled to recovery of suit amount as prayed for? OPP.**
2. **Whether the plaintiff is entitled to interest on the suit amount, if yes at what rate and for what period? OPP.**
3. **Relief.**

No other issue is pressed or arises.

Put up for PE by way of affidavit on 13.08.2019 with advance copy to the other party at least two weeks before next date of hearing.

Parties are directed to file original documents and list of witnesses on record within 15 days from today alongwith spare copy for other party.

(Sanjay Jindal)
ADJ-4(NW): Rohini Courts:Delhi
13.03.2019/pk