

CS DJ 113/23
PREM SWARUP VERMA Vs. FAJILA KHATUN

24.07.2023

Present: Sh.Anil Kumar Adv. (***M. No.995368474***) Ld.
Counsel for plaintiff.
Defendant in person with Sh.Shamsher Ali Adv. (***M. No.9810817054***) Ld. Counsel for plaintiff.
Heard on the application under Order 39 Rule 1 and 2
CPC moved by the plaintiff.

Plaintiff has filed the suit for possession on the ground of defendant being a tenant and has further sought declaration to declare the documents GPA, Agreement to sell, etc. alleged to be executed in favour of the defendant as null and void and other reliefs.

On the other hand, Ld. Counsel for defendant submits that the plaintiff has filed the suit in respect of property No.F-6A whereas the defendant is the owner and in possession of property no.F-8, Abul Fazal Enclave, New Delhi which is adjoining to the property of the plaintiff and is a separate property.

On being enquired, Ld. Counsel for plaintiff after instructions from the plaintiff submits that plaintiff is the owner of only one property that too which is in occupation of the defendant and no other adjoining property.

Both the Ld. Counsels submit that a Local Commissioner may be appointed in order to ascertain the factual position on the spot.

Therefore, ***Sh.Tanishq Sharma, Adv. M. No.8368508595, Off. Lawyers' Chamber Block 1, Delhi High Court, New Delhi, email: tanishqsharma356@gmail.com*** is appointed as Local Commissioner with following terms of reference:

1. LC shall visit the suit property which is in occupation of the defendant within a period of 10 days after giving notice to both the

CS DJ 113/23

PREM SWARUP VERMA Vs. FAJILA KHATUN

parties. Both the parties/ their representatives shall remain present on the spot.

2. LC shall make a rough sketch plan of the property in occupation of the defendant and will also take the photographs.

3. LC shall also inspect the adjoining property as pointed out by the defendant and will ascertain as to who is in possession of the said property and in what capacity, owner/ tenant/licensee etc. He will make a rough sketch plan thereof and will also take photographs thereof.

4. LC to file the report before next date of hearing with copy being supplied to both the parties.

Fees of the LC is fixed at Rs.30,000/- to be shared by both the parties in equal $\frac{1}{2}$ measures. All the incidental charges shall be borne by the plaintiff.

In the meanwhile, without prejudice to rights and contentions of either parties, it is directed that status quo shall be maintained respect of the suit property till next date of hearing only.

Put up for further arguments on the application under Order 39 Rule 1 and 2 CPC on **13.10.2023. Copy dasti.**

(Munish Markan)

**ADJ-02(SE)/District Courts, Saket,
New Delhi/24.07.2023**

pk