

CS DJ 400/20
SUDHA SHARMA
Vs.
OMI CHAND (SINCE DECEASED THR. HIS LEGAL HEIRS

20.01.2023

Present : Sh. Nitin Arora Adv., Ld. Counsel for plaintiff with plaintiff.
Sh. Amit Kumar Adv., Ld. Counsel for defendants with all
the 3 defendants in person.

Admittedly, defendants have already paid previous cost of
Rs.10,000/- to the plaintiff and undertake to pay the balance cost of
Rs.5,000/- positively by the next date.

Arguments heard on the application under Order 39 Rule 2A
CPC.

Ld. Counsel for defendant submits that plaintiff had removed
her belongings from the suit property of her own and the defendants have
not taken the possession of the suit property from the plaintiff and infact
had already filed the suit for eviction bearing no. CSDJ 979/19 which is
also pending before this court. Therefore, Ld. Counsel for plaintiff prays
for withdrawal of application under Order 39 Rule 2A CPC submitting
that since the defendants have already admitted the possession of the
plaintiff in the suit premises, the plaintiff will re-enter the suit property.
Therefore, application under Order 39 Rule 2A CPC is disposed off
accordingly.

The defendants who are present in the court have been made
aware import of the stay order dated 17.01.2022 in vernacular.

From the pleadings of the parties, following issues are framed :-

ISSUES:

1. **Whether the plaintiff is entitled to a decree of specific performance or the alternative relief as prayed in prayer clause (a) ? OPP**
2. **Whether the plaintiff is entitled to a decree of permanent injunction as prayed in prayer clause (b) ? OPP**
3. **Relief.**
No other issue arises or is pressed for.

List of witnesses be filed within 15 days. Advance copy of affidavit of witnesses be supplied to the opposing counsel within one month.

Perused the pleadings in both the cases. Both the Ld. counsels agree that common question of facts are involved in the present case as well as CSDJ no. 979/19 and common evidence is required to be led in both the cases.

Therefore, at joint request, let common evidence be led in both the cases. First of all, the LRs of plaintiff in the suit CSDJ no. 979/19 (defendant in present case) shall lead evidence. Plaintiffs to ensure that advance copy of affidavit is supplied to the defendant within one month from today. Copy dasti.

Put up for P.E. on **11.05.2023**.

(Munish Markan)
ADJ-02/(SE), District Courts, Saket,
New Delhi/20.01.2023