

6 CS DJ ADJ 481/24 ANITA Vs. AMIT AND ORS

29.07.2024

Present: Sh. S A Rajput, Ld. Counsel for plaintiff along with plaintiff.
Ms. Komal Jha, Ld. Counsel for defendant no. 1 and 2.
Defendant no. 1, 2, 4, 5, in person.

Fresh vakalatnama filed on behalf of plaintiff. Same is taken on record.

Amended memo of parties be filed in compliance of last order within two days.

Process duly served to defendant no. 3, 4, 5 and 6. WS, reply to application u/o XXXIX Rule 1 and 2 CPC and application u/o VIII Rule 1 CPC, list of documents and fresh Vakalatnama filed on behalf of the defendant no. 1 and 2. Copy supplied.

Considering the reasons mentioned in the application u/o VIII Rule 1 CPC, delay in filing of WS stands condoned. Application stands disposed off accordingly.

Defendant no. 4 and 5 submit that, they have nothing to do with the suit premises. They are neither owner nor in possession of the same and unnecessary impleaded in the present proceedings. Separate statements of defendant no. 4 and 5 recorded to this effect.

In view of the statements given by defendant no. 4 and 5, Ld. Counsel for plaintiff submits that, they may be deleted from the array of parties. Heard. **Defendant no. 4 and 5 stands deleted from the array of the parties.**

At this stage, defendant no. 2 submits that, his name is incorrectly mentioned as Subham while his correct name is **Shivam s/o Sh. Rajesh Singh.**

In view thereof, plaintiff is directed to rectify above defect and file amended memo of parties accordingly.

Ld. Counsel for plaintiff pressed upon his application u/o XXXIX Rule 1 and 2 CPC. Accordingly, arguments heard on behalf of both parties.

During the course of arguments, Ld. Counsel for defendant no. 1 and 2 conceded to the fact that they are in possession of entire suit property i.e. **Plot bearing no. 43 and 44 admeasuring 233.4 sq. yards in Khasra no. 18/15/2 situated in the area of Village Razapur Khurd, Delhi colony known as Block R-5, Uttam Nagar, New Delhi-110059** and undertakes that they would not create any third party right during the pendency of present matter.

In view of the undertaking given on behalf of defendant no. 1 and 2, application u/o XXXIX Rule 1 and 2 CPC stands disposed off. Defendant no. 1 and 2 are restrained to create third party right during the pendency of present matter.

Ld. Counsel for plaintiff submits that, since defendant no. 1 and 2 are also claiming the ownership of the suit property and filed title documents, he would file appropriate application to amend the plaint suitably.

Put up for further proceedings on **08.10.2024**.

(SHILPI M JAIN)
DJ-05 (SW)/Dwarka Courts
New Delhi: 29.07.2024