

Civ DJ 419/2022
Gurbir Singh V. Jasmine Kaur & Ors.

26.11.2022

Present: Sh. Kuljeet Rawal alongwith Sh. Aditya Joshi,
Ld. Counsel for plaintiff
Sh. Iqbal Singh and Sh. Rajiv Saxena, ld. Counsel for
defendants

Heard on the second application u/o 39 rule 1 and 2
CPC filed by the plaintiff.

Plaintiff averred that vide order dated 15.09.2022,
defendants no. 1,2 and 3 were restrained form selling/ parting
with the possession or creating third party in the suit property
i.e. two room set, delineated in red colour in the site plan out of
property no. 37, West Avenue Road, Punjabi Bagh, New Delhi.
Defendants no. 1,2 and 3 are in occupation of two rooms and
two attached toilets as shown in the site plan. Plaintiffs are also
residing on the same floor and occupying the remaining portion
of the property. Plaintiff having apprehension that defendants
might trespass and disturb their possession *vis-a-vis* the portion
in their occupation.

Ld. Counsel for defendant on the other hand submitted
that the defendants are residing in two rooms and they shall not
disturb the possession occupied by the plaintiff. Vide separate
statement, ld counsel for the defendants has undertaken that the
defendants are in possession and occupation in respect of the

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portion marked red in the site plan besides use of the common area, kitchen and the rear set back area (used for washing area). They are not claiming any right on the area which is in the possession of the plaintiff. It is further undertaken that the defendants have no intention and have never tried to trespass in any other area as apprehended by the plaintiff. Separate statement of counsel for defendant recorded to this effect.

In view of statement of counsel for defendants, application under Order 39 Rule 1 & 2 CPC is allowed and defendants are restrained from trespassing the area in occupation of the plaintiff. Thus, defendants are entitled to use two room set, delineated in red colour in the site plan out of property no. 37, West Avenue Road, Punjabi Bagh, New Delhi as per site plan, kitchen, common passage and rear set back area. Application stands disposed of.

Put up for admission-denial of documents and framing of issues on 12.01.2023.

(Manish Sharma)
Additional District Judge-01(West)
Tis Hazari Courts, Delhi/26.11.2022