

24.02.2021

Proceedings have been held by way of video conferencing with the help of CISCO Webex Meeting.

Present: Ms Shobha Gupta, counsel for plaintiff.
Sh. K.S. Kashyap, counsel for defendant.

Right of the defendant to file written statement was closed vide order dated 15.01.2020 as she had not filed the written statement despite expiry of six months.

An application under section 5 of Limitation Act read with section 151 CPC and another application under order 9 rule 4 CPC was filed on the last date. The counsel for defendant submitted that in the second application, he has mentioned wrong rule number.

The counsel for plaintiff has no objection, if both applications are allowed subject to costs. In view of that contention of counsel of plaintiff, both applications are allowed subject to costs of Rs.5,000/- payable by the defendant to the plaintiff. Written statement shall be taken on record only on the payment of costs.

Rejoinder received on the dedicated e-mail ID of the court. Plaintiff is directed to supply thereof to opposite counsel on his Whatsapp number. Physical copy of the replication is also required to file in the court.

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

1. Whether plaintiff is entitled for preliminary decree under order 34 Rule 4 CPC thereby directing the defendant to pay an amount of Rs. 16,77,500/- alongwith pendente lite and future interest @ 1.5 % per month? OPP
2. Whether plaintiff is entitled for a final decree against the defendant thereby directing the sale of the mortgaged property i.e. entire ground floor without roof right measuring about 100 sq. yds. Forming part of property bearing Municipal No. 17/61-A, Tilak Nagar, New Delhi? OPP
3. Whether the mortgage deed dated 08.12.2015 is a false and sham document? OPD
4. Relief.

No other issue arises or pressed for. Parties are directed to file list of witnesses and affidavit in evidence of their proposed witnesses on the next date. First the evidence shall be led by the plaintiff and he is directed to supply advance copy of affidavit of proposed witnesses atleast 15 days before the next date.

Put up on 13.05.2021 for P.E.

(Umed Singh Grewal)
ADJ-02, WEST
24.02.2021