

Civ DJ 460/21
RAJ RANI UPPAL Vs. KAMAL KANT SHARMA

11.11.2022.

Present: Sh. Sumit Ahuja, counsel for plaintiff.
Ms. Vishakha Sharma, Proxy counsel for defendant
no. 1.
Sh. R.K. Upadhyay, counsel for defendant no. 2.

Heard on the application U/o XXXIX Rule 1 & 2 CPC
filed by the plaintiff.

The plaintiff has filed a suit for possession, recovery
of arrears of rent, damages/ mesne profit and permanent
injunction.

It is averred that the plaintiff is the owner of the
residential premises i.e. 3rd floor, of property bearing no. 36/7,
East Punjabi Bagh, New Delhi (in short the "Suit Property"). The
defendant nos. 1 & 2 are tenants in the suit property. The suit
property was let out by the plaintiff to the defendant nos. 1 & 2
on 01.01.2019 for a monthly rent of Rs. 45,000/- excluding
electricity, water and other charges w.e.f. 10.01.2019. However,
defendants shifted in the suit property on 10.02.2019 and with
the mutual consent, the tenancy was agreed to have commenced
w.e.f. 10.02.2019. It has come to the plaintiff's knowledge that
the defendants are illegally and unlawfully trying to part with
possession and they will create third party interest in respect of
the suit property and they may be restrained from creating any
kind of third party interest in the suit property.

Reply to application filed by defendant. As per
version of the defendant that defendant no. 1 and one Rahul
Chaudhary has agreed to jointly purchase built up upper ground
floor and third floor with roof rights of property bearing no.
36/7, East Punjabi Bagh, New Delhi and they gave a sum of Rs.
7.5 Lacs in cash to the plaintiff vide a receipt dt. 02.11.2016
towards token money/ bayana. He has prayed that plaintiff's

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application may be dismissed.

In these circumstances, suit property requires to be protected for just and proper disposal of the suit, and the plaintiff will suffer irreparable loss and injury in case if the defendants are not restrained from creating any third party interest in the suit property. Plaintiff has made out a *prima facie* case in his favour and balance of convenience also lies in favour of plaintiff and against the defendants.

In view of that, defendants are restrained from creating any third party interest in the suit property during the pendency of the present suit. The application filed by the plaintiff U/o XXXIX Rule 1 & 2 CPC is allowed.

Nothing stated herein above shall tantamount to the expression of opinion on the merits of the case.

Put up for arguments on application U/o 1 Rule 10 CPC as well as for admission denial of documents and for framing of issues on 21.12.2022.

(Manish Sharma)
Additional District Judge-01(West)
Tis Hazari Courts, Delhi/11.11.2022