

CIV DJ 1041/2022
Shalu Sori Vs.
Vijay Kumar Sori & Ors.

01.07.2024

Present: Sh. K.K. Srivastava, Ld. Counsel for plaintiff.
 Sh. Samrat Jasra, proxy for Sh. Kartik Jasra, Ld.
 Counsel for defendants.
 Applicant Ms. Usha Sagar with Ld. LAC Sh. Vijay.

1. As per advise given vide order dated 04.06.2024, certain photographs along with certificate u/s 65B of Indian Evidence Act, depicting the terrace and some portion of outside projection of the suit property, were filed on behalf of plaintiff through e-filing. Hard copy of the same is furnished and taken on record. Copy supplied to opposite side.

2. Ld. Counsel for plaintiff has pressed pending application u/s 151 CPC, filed on 20.07.2023, for seeking issuance of directions to the IO of case FIR No. 818/2022, PS Paschim Vihar East for de-sealing of the suit property for the purpose of its maintenance and repairs.

3. Although, adjournment is sought on behalf of defendant due to non-availability of main counsel, however, the application is taken up for hearing as it involves urgent relief.

 Arguments heard on the application.

4. Mainly it is stated that in compliance of order dated 08.12.2022 passed by this Court the suit property, in respect of which FIR No. 818/2022, u/s 448/451/34 IPC was registered, was sealed after getting the same vacated from the defendants by IO/ SHO, PS Paschim Vihar East, that the suit property is

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situated at second floor i.e. the top floor of the building, that earlier the plaintiff used to get the terrace of the suit property repaired every year before rainy season to avoid seepage in the building and that the neighbours have informed that the property is in bad condition which requires immediate maintenance/ repair to avoid potential damage to it due to rainy season.

5. Ld. Proxy counsel for the defendants has strongly opposed the application mainly stating that the roof of the suit property does not require any maintenance/ repair.

6. By way of present application, the plaintiff is seeking permission to carry out necessary maintenance/ repair work in the suit property in order to prevent potential damage in wake of ongoing rainy season and necessary directions to the IO. The photographs filed on behalf of the plaintiff clearly depict that the terrace, outer walls, etc. of the suit property are in poor condition as much as tree/ bushes have grown on certain portion of the terrace and on the outer walls of the suit property. Also several cracks have developed therein and several tiles from the projection of the outer wall have fallen down. There is every apprehension that if necessary maintenance/ repair is not carried out, the suit property would be damaged further and this situation can also lead causing injury to persons residing in the vicinity and damage to their property.

7. On inquiry, Ld. Counsel for the plaintiff has stated that the plaintiff is ready to carry out the maintenance/ repair work at his own cost and that such work may take a period of approximately 30 days to complete.

8. Accordingly, the plaintiff is allowed to carry out

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necessary maintenance/ repair work in the suit property, as aforementioned. It is hereby directed that the IO/ SHO concerned shall de-seal and unlock the suit property as soon as possible and thereafter to handover possession of the property to the plaintiff for the purpose of carrying out aforementioned maintenance/ repair work. The plaintiff is directed to ensure that the aforesaid work is completed as early as possible and not beyond a period of 30 days from the date on which the possession of the suit property is handed over to her after de-sealing and unlocking it. Plaintiff is also directed to get the relevant portion of the suit property videographed and photographed prior to and after carrying out necessary maintenance/ repair work and to get the same filed before the Court in pendrive on NDOH.

9. The IO/ SHO is directed to get the suit property re-locked and re-sealed after completion of necessary maintenance/ repair work therein, as done earlier in compliance of order dated 08.12.2022 and to submit report in this regard before the Court on NDOH.

Put up for consideration/ arguments on application u/o I Rule 10 CPC, on 21.10.2024.

Copy of the order be given dasti to Ld. Counsel for plaintiff and one copy be also sent to IO/ SHO, PS Paschim Vihar East, for compliance and necessary action.

(GOPAL SINGH CHAUHAN)
DJ-03, WEST/DELHI
01.07.2024