

**IN THE COURT OF SH. NAVEEN K. KASHYAP,
SENIOR CIVIL JUDGE-CUM - RENT CONTROLLER,
NORTH WEST DISTRICT, ROHINI COURTS COMPLEX,
DELHI.**

Civil Suit no: 862/18

Bansi Lal Bhatia

... **Plaintiff**

Versus

Ashwani Washwani Wigh

... **Defendant**

ORDER

16.11.2018

1. Vide this order, the application dated 06.06.2018 filed by the plaintiff U/O. 39 R 1 & 2 CPC is decided.
2. In nut shell, it is stated that plaintiff has filed accompanied suit for possession, permanent injunction, damages and mesne profit and same be read as part and parcel of the present application. That the plaintiff is a senior citizen and lawful owner/ landlord of the suit property in question and defendant is tenant. That despite lapse of three years on 31.10.2017 the defendant failed to handover the vacant and peaceful possession of the suit premises to the plaintiff despite the fact that tenancy was not mutually renewed. That son of the plaintiff is transferred back to Delhi in March, 2016 and as such the suit property is needed by the plaintiff. That tenancy of the defendant is already terminated vide notice dated 14.12.2017 to which even a reply dated

::2::

06.01.2018 was given by defendant side. It is further claimed that defendant wanted and insisted that tenancy be renewed and when the plaintiff did not agree to the same defendant and his father became furious and openly threatened the plaintiff that they will not vacate the same and will teach the plaintiff a lesson and will transfer / sublet the possession of suit premises to some third party/ anti social element of the area. That same cause great terror and apprehension to the plaintiff. As such, it is prayed in the present application, inter-alia, that a permanent injunction be passed in favour of plaintiff and against defendant thereby restraining the defendant or anybody acting on his behalf from creating any third party interest whatsoever in suit property No. G-121, back side, Ground floor, Ashok Vihar, Phase-I, Delhi-52, as shown in red colour in the site plan filed with the plaint, till final disposal of the present suit.

3. WS as well as reply to present application already filed on 24.09.2018. It is submitted in such reply that plaintiff has concealed the material facts and the present application is not maintainable. It is further, denied that any such threat was given by defendant or his relative . As such, it is prayed that present application be dismissed with cost.

4. I have heard both the plaintiff and defendant and gone through the record.

5. On bare reading the pleadings particularly the WS and reply filed by the defendant, it is not in dispute that there is a landlord tenant relationship between the parties. Prima-facie it also appears that there is a dispute between the parties regarding whether the defendant is still the

::3::

tenant or not. In any case present suit is hotly contested by the defendant side. Admittedly the possession of the suit property is with the tenant/defendant. Further, as per the pleadings on record, defendant has failed to handover the vacant possession to the plaintiff despite demand. Under these circumstances, a prima facie case is made out in favour of the plaintiff and against the defendant. Further, in case defendant create a third party interest then it is likely to cause irreparable loss to the plaintiff. Further, as admittedly the defendant is only a tenant, balance of convenience also lies in favour of plaintiff having regard to the prayer made, as such, defendant has no other right, title or interest other than the terminated tenancy rights in the suit property. Under these circumstances, present application is allowed. The defendant is restrained from creating any third party interest in the suit property. With these observations, present application is disposed off.

**Announced in the open
court on 16.11.2018.**

**(Naveen Kr. Kashyap)
SCJ-RC, NW/Rohini Courts,
16.11.2018 (rd)**