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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 1900/2015

MANIKA MADAN

Through

..... Plaintiff

Ms. Payal Jain, Advocate
Plaintiff in person.

versus

MAMTA NAGPAL & ANR

Through

..... Defendants

Mr. Vikram Singh with Mr. C.
Shekhar Malhotra, Advocates for
D-1. D-1 in person.
Lt. Col. Baruna Madan, D-2 in
person.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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26.10.2018

I.A. 13922/2018

Present application has been filed seeking recall of the direction to file eviction petition against the tenants of third floor with terrace roof rights of Cottage Property 6, West Patel Nagar New Delhi-110008 passed by this Court vide order dated 10th September, 2018.

Learned counsel for applicant states that subsequent to the order dated 10th September, 2018, the tenant has cleared the arrears from May, 2017 to September, 2018 and the said amount has been deposited with the Registrar of this Court on 24th September, 2018. He further states that as disposal of the present suit shall take considerable time, it is in the interest of all the parties if the suit property is continued to be let out on rent to this tenant or some other tenant.



On the other hand, learned counsel for plaintiff and defendant No.2 state that the aforesaid property is in the possession of defendant No.1 and in connivance with her counsel as well as his brother are running a PG Hostel and are obtaining wrongful gain of approximately Rs.80,000/- per month by concealing this income from other co-owners. They further state that as they are co-owners, they want to personally enjoy the suit property and would like the tenants to be evicted.

Admittedly on 12th October, 2017, this Court had passed a preliminary decree defining the share of plaintiff and defendants No.1 and 2 in third floor with terrace roof rights of Cottage Property 6 with proportionate land underneath measuring 159.5 sq. yds. in the abadi of West Patel Nagar, New Delhi-110008.

As the co-owners i.e. plaintiff and defendant No.2 wish to personally enjoy the suit property, this Court is of the view that no ground is made out to recall the order dated 10th September, 2018. Parties are directed to take steps in accordance with order dated 10th September, 2018 forthwith.

Accordingly, present application is dismissed.

I.A. 13921/2018

Present application has been filed by the defendant no. 1 for changing the date of deposit of rent from 7th of every month to 17th of every month.

In the opinion, of this Court the prayer sought for is innocuous in nature. Consequently, the same is allowed. However, it is made clear that allowing of this application would not be a ground to not file eviction petition against the tenant/paying guest.

Accordingly, present application stands disposed of.



I.A. 14663/2018

Present application has been filed by the defendant no. 1 under Order XL Rule 1 CPC.

Issue notice.

Ms. Payal Jain, Advocate accepts notice on behalf of non-applicant/plaintiff. Lt. Col. Baruna Madan, defendant no. 2 accepts notice. They pray for and are permitted to file a reply-affidavit within three weeks.

Rejoinder, if any, be filed before the next date of hearing.

List on 25th January, 2019.

CS(OS) 1900/2015 & I.A. 14958/2017

List on 25th January, 2019.

MANMOHAN, J

OCTOBER 26, 2018

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