$~23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(OS) 1900/2015, CCP(O) 20/2019, CCP(O) 66/2019, CCP(O) 77/2019, I.A. 1925/2019, I.A. 2480/2019, I.A. 5622/2019, I.A. 8707/2019, I.A. 8708/2019, I.A. 11368/2019, I.A. 17155/2019, I.A. 17156/2019, I.A. 3629/2020 & I.A. 3631/2020

MANIKA MADAN ..... Plaintiff

Through Ms. Payal Jain, Adv.

versus

MAMTA NAGPAL & ANR ..... Defendants

Through Mr. Vikram Singh, Adv. for D-1.
Ms. Mansi Gupta, Adv. for D-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

O R D E R

% 19.03.2020

I.A. 3630/2020

1. This application was mentioned before me for an urgent listing on the ground that the amnesty scheme for payment of property tax expires on 31.3.2020. Thus, listing of the application was ordered. This is, how, the application was listed for hearing today.

2. In support of the assertions made in the application, defendant no.1 has relied upon the order dated 18.4.2017 passed by this Court.

3. It is contended that the parties had agreed that the rent deposited in this Court by defendant no.1 *vis-a-vis* Property no.6, West Patel Nagar, New Delhi-110008 (for short "West Patel Nagar Property") could be utilised for payment of property tax.

4. Insofar as the plaintiff and defendant no.2 are concerned, they are represented by advocates Ms. Payal Jain and Ms. Mansi Gupta respectively. They have appeared on advance notice.

5. It is not in dispute that the parties to the suit action are siblings and partition of properties which are subject matter of the said suit action is at the heart of the dispute between the parties.

6. Apart from West Patel Nagar Property, there are two other immovable properties, which concern the parties herein.

6.1 These properties are described as (i) A-38/1, Mayapuri Industrial Area, Phase-I, New Delhi-110064 (in short "Mayapuri Property") and; (ii) BE-274, Third Floor, Hari Nagar, New Delhi-110064 (in short "Hari Nagar Property").

7. Learned counsel for defendant no.2 submits that since the Maya Puri Property and Hari Nagar Property are in possession of defendant no.2, the said defendant will pay, for the moment, the entire outstanding property tax *vis-a-vis* these two properties on or before 31.3.2020 and, thereafter, claim $1/3^{rd}$ share from the plaintiff and defendant no.1.

8. Ms. Payal Jain, who, as indicated above, represents the plaintiff, says that the plaintiff will bear the burden of the tax qua the properties referred to in paragraph 7 above in the manner indicated therein.

9. Counsel for defendant no.1 submits likewise.

9.1 Furthermore, counsel for defendant no.1 submits that insofar as the West Patel Nagar Property is concerned, up-to-date property tax has been paid and that receipts qua the same will be filed in Court.

9.2 Counsel further submits that copies of the receipts will be furnished to the counsel for the plaintiff as well as the counsel for defendant no.2.

10. In these circumstances, the application is disposed of with the following directions:

(i) Defendant no.2 will pay the entire outstanding property tax *vis-a-vis* the Maya Puri Property and the Hari Nagar Property without fail on or before 31.3.2020.

(ii) The plaintiff and defendant no.1, will, (upon receipts being produced evidencing payment of property tax) remit their share equivalent to 1/3rd of the total amount to defendant no.2 within a period of one week of such intimation being given.

(iii) Defendant no.1 will file, in Court, receipts evidencing payment of property tax qua West Patel Nagar Property.

(iv) In case it is found that the payment of property was either not made or delayed whereby the rebate available was lost, the burden of the excess amount, if any, payable towards tax, interest or penalty will be borne entirely by defendant no.1.

11. In view of the aforesaid directions qua which there is an agreement between counsel for parties, it is not felt necessary either to permit entry of defendant no.1 in the Maya Puri Property for the purposes of taking measurements or to allow defendant no.1 to pay property tax by dipping into the rent (along with accrued interest) which stands deposited with the Registry of this Court.

CS(OS) 1900/2015

12. Counsel for the plaintiff and defendant no.2 have a grievance qua the counsel for defendant no.1.

13. The grievance is that hard copies of the applications filed are not provided. It is stated that copies sent through e-mail are not legible.

14. In these circumstances, to cut out scope for any further controversy, counsel for defendant no.1 is directed to furnish hard copies of applications to counsel for the plaintiff and defendant no.2, in addition to the applications being served via e-mail.

RAJIV SHAKDHER, J

MARCH 19, 2020
rb

Click here to check corrigendum, if any