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

+ CS(OS) 1900/2015

MANIKA MADAN

..... Plaintiff

Through: Ms. Payal Jain, Advocate.

versus

MAMTA NAGPAL & ANR

..... Defendants

Through: Mr. Vikram Singh Dahiya, Advocate
for D-1.

Ms. Mansi Gupta, Advocate for D-2.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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07.09.2022

CCP(O) 13/2022

1. By way of this contempt petition, counsel for the plaintiff/petitioner alleges wilful disobedience by the defendant no.1 of the orders dated 6th December, 2016, 18th April, 2017, 26th October, 2018 and 16th May, 2019 passed in the present suit.
2. Counsel for the plaintiff submits that the plaintiff has wilfully disobeyed the orders passed by this Court by failing to deposit the rent in respect of the Cottage property bearing No.6, Third floor, West Patel Nagar, New Delhi-110008 after March, 2020.
3. Counsel for the defendant no.1 submits that no arrears of rent from the tenant in respect of the aforesaid property have been realised by the defendant no.1 after March, 2020. He further submits that the case being CS SCJ 1126/2019 is pending before the Civil Judge, Tis Hazari Courts, for recovery of mesne profits/arrears of rent.



4. I have heard the counsels for the parties.
5. In view of the fact that the plaintiff and the defendant no.2 are equal owners of the said property in terms of the preliminary decree passed by this Court on 12th October, 2017, it is deemed appropriate that the plaintiff and the defendant no.2 are also impleaded as co-plaintiffs in the aforesaid suit pending before Civil Judge, Tis Hazari Courts.
6. Let an appropriate application be filed in this regard on behalf of the plaintiff and the defendant no.2 within four weeks from today.
7. Counsel for the defendant no.1 submits that in the event of such an application being filed, the same shall not be opposed by the defendant no.1.
8. With the aforesaid directions, the contempt petition stands disposed of.

I.A. 8294/2022 (u/S 151 of CPC)

9. Counsel for the plaintiff and defendant no.2 submits that in terms of the order dated 11th July, 2022, the duplicate keys have been received by the plaintiff and the defendant no.2.
10. In view of the aforesaid submission, the application stands disposed of.

CS(OS) 1900/2015

11. Preliminary decree dated 12th October, 2017 has already been passed defining the share of the plaintiff and the defendants no.1 and 2 as one-third share each in the built up Third Floor with terrace roof rights out of the half undivided share of Cottage property no.6 with proportionate land underneath measuring 159.5 sq yds. situated in the abadi of West Patel Nagar, New Delhi-110008.
12. Counsels for the parties submit that the aforesaid property cannot be



divided by metes and bounds.

13. Accordingly, a final decree of partition is passed in respect of the built up Third Floor with terrace roof rights out of the half undivided share of Cottage property no.6 with proportionate land underneath measuring 159.5 sq yds. situated in the abadi of West Patel Nagar, New Delhi-110008, by sale of the suit property and distribution of the sale proceeds between the parties as per their shares declared in the preliminary decree for partition dated 12th October, 2017. It is further ordered that the parties shall have the option of making *inter se* bids for purchase of each others' share in respect of the suit property. The party bidding the highest would be entitled to acquire the share of the other party by making payment of the value of the share of the other party against execution of transfer deed.

14. Decree sheet be drawn up accordingly.

15. List before the Joint Registrar on 10th November, 2022 for further proceedings.

16. List the remaining pending applications before the Court on 15th February, 2023.

17. Counsel for the parties shall make a list of all the pending applications and file the same at least three days before the next date of hearing.

CCP 77/2019

18. Last opportunity of four weeks is given to the counsel for the defendant no.2 to file reply.

19. List on 15th February, 2023.

AMIT BANSAL, J.

SEPTEMBER 7, 2022/at