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

+ **CS(OS) 70/2022, CAV 29/2022, I.A.s 2063-64/2022**
GYANENDER Plaintiff

Through **Mr. Prateek Choudhary, Adv.**

versus

DEVENDER DABAS & ORS. Defendants

Through **Mr. Hardik Ahluwalia & Mr. B.K. Singh, Advs. for D-1.**

CORAM:
HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **07.02.2022**

[VIA VIDEO CONFERENCING]

CAV 29/2022

1. Mr. Hardik Ahluwalia, Advocate, has entered appearance on behalf of the caveators/defendant No.1.

2. Accordingly, the caveat stands discharged.

I.A. 2063/2022 (exemption)

3. Allowed, subject to all just exceptions.

4. The application stands disposed of.

CS(OS) 70/2022, I.A. 2064/2022 (of the plaintiff for ad-interim/interim ex parte injunction under Order XXXIX Rules 1 & 2 read with Section 151 of CPC).

5. The plaint be registered as a suit.

6. This is a suit for partition and permanent injunction in respect of properties, as mentioned in para No.2 of the plaint, namely, (i) an old Lal Dora property, admeasuring about 266 sq. yards., in Village Madanpur Dabas, Delhi 110081, (ii) a property in Khasra No. 29//6/1 in



the extended Lal Dora (Phirni) of Village Madanpur Dabas, Delhi 110081 and (iii) agricultural lands in Khasra Nos.12//2/3 (1-11), 12/9 (4-16), 14//21/2 (1-4), and 19/1 (4-16) in the revenue estate of village Madanpur Dabas, Delhi 110081.

7. Issue summons in the suit and notice in the application to the defendants.

8. Mr. Hardik Ahluwalia, Advocate, accepts summons in the suit and notice in the application on behalf of the defendant No.1 and seeks time to file written statement to the suit and reply to the application.

9. The written statement and reply be filed with advance copy to the plaintiff within thirty days alongwith affidavit of admission/denial of the documents filed by the plaintiff, failing which, the written statement shall not be taken on record.

10. The plaintiff may file replication and rejoinder within thirty days following the filing of the written statement/reply. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendants, failing which the replication shall not be taken on record.

11. Summons and notice be issued to the remaining defendants i.e. defendants No.2 & 3 by all permissible modes, returnable before the Joint Registrar on the next date of hearing.

12. The summons shall indicate that the written statement to the suit and reply affidavit to the application must be filed by the defendants within thirty days from the date of receipt of the summons. The defendants shall also file affidavit of admission/denial of the documents filed by the plaintiff, failing which, the written statement shall not be taken on record.

13. The plaintiff is at liberty to file replication to the written statement and rejoinder to the reply(ies) filed by the defendants within thirty days



following the filing of the written statement/reply. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendants, failing which the replication shall not be taken on record.

14. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the time-lines.

15. Mr. Prateek Choudhary, learned counsel for the plaintiff, submits that the defendant No.1 is constructing his house in the portion marked in red in the site plan (at page 13 of the documents filed by the plaintiff) and though it includes a portion of the green area which is a common area, the protection, subject to final equities, is sought in respect of the remaining portion, which is presently an open land. The said portion has been depicted in the second photograph, filed at page 14, which appears to be partially surrounded by a half constructed wall.

16. Mr. Hardik Ahluwalia, learned counsel appearing, on advance notice for defendant No.1, submits that the defendant No.1 is in fact not carrying out any construction in this portion of the land.

17. In view of the submissions made, till the next date of hearing, the parties shall maintain *status quo* in respect to the open portion of land, depicted in green in the site plan and the photographs.

18. Provisions of Order XXXIX Rule 3 CPC be complied with qua defendants No.2 & 3.

19. List before the Joint Registrar on 21st April, 2022, for completion of service qua defendants No.2 & 3 and pleadings.

20. The order be uploaded on the website forthwith.

ASHA MENON, J

FEBRUARY 7, 2022/ck