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

+ **CS(OS) 237/2021**

SUNITA SHARMA

..... Plaintiff

Through: Ms. Sonia A. Menon, Mr. Rohit Taneja and Mr. Nishchint Rawat, Advocates.

versus

MEENA SHARMA & ORS.

..... Defendants

Through: Mr. Chirag Madan, Advocate for D-1 to D-3.

Mr. Sunil Dalal, Sr. Advocate with Mr. Ashish Sharma, Ms. Pratibha Varun and Ms. Manisha Saroha, Advocates for D-4 to D-6.

Mr. Mohit Arora, Advocate for Applicant.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **04.05.2022**

I.A. 2000/2022 (u/S 151 of CPC)

1. The present application has been filed on behalf of the applicant/ Oriental Insurance Company Limited seeking a direction for allowing the applicant egress and ingress to the premises/land located near Bank of India, Bhaktabarpur, Delhi, which is one of the suit properties. It is stated that the aforesaid premises/land had been given by the father of the plaintiff and the defendants to the applicant, for parking of various salvaged/theft recovery vehicles, in terms of an understanding dated 11th September, 2012.

2. In terms of the aforesaid understanding, the charges for use of the



premises/land were on the basis of the number of vehicles parked at the said premises/land during the preceding month.

3. Counsel for the applicant submits that as on date, a sum of Rs.17,16,848/- is payable by the applicant as arrears towards the usage of the said premises/land and the applicant is willing to pay the aforesaid amount as also the future amounts in terms of the aforesaid understanding. It is further submitted that the defendants no. 4 to 6 are not allowing the applicant ingress and egress to the aforesaid premises/land.

4. Mr. Sunil Dalal, senior counsel appearing on behalf of the defendants no. 4 to 6 submits that in terms of the Will dated 23rd February, 2021, executed by the father of the parties, the aforesaid premises/land was bequeathed in favour of the defendants no.4 to 6. He further submits that the defendants no.4 to 6 are spending money towards the maintenance of the aforesaid premises/land, including the payment of salaries to the security guards and therefore, it is submitted that the user charges be given directly to the defendants no. 4 to 6.

5. Counsel for the plaintiff, supported by the counsel for the defendants no.1 to 3, challenges the validity of the aforesaid Will and therefore, submits that the user charges should be deposited in the Court.

6. I have heard the counsels for the parties. The aforesaid Will propounded on behalf of the defendants no.4 to 6 has been disputed by the plaintiff and the defendants no.1 to 3 and the genuineness of the same can only be determined in the trial.

7. However, it appears that it is the defendants no. 4 to 6, who are spending money towards the maintenance of the aforesaid premises/land and also paying the salaries to the security guards posted at the said



premises/land. Accordingly, at this stage, in order to balance equities, I am of the view that, with effect from May, 2022, 50% of the monthly user charges be paid directly by the applicant to the defendants no.4 to 6 and the balance 50% of the monthly user charges be deposited before this Court.

8. The defendants no.4 to 6 shall file quarterly statements before this Court, giving full details in respect of the amounts received by them from the applicant, towards the user charges and the manner in which the aforesaid amounts have been spent. It is further directed that all maintenance charges and other payments would be paid by the defendants no. 4 to 6 only by way of cheque.

9. Out of the arrears of Rs.17,16,848/-, the applicant shall pay a sum of Rs.5,00,000/- to the defendants no.4 to 6 and the balance amount will be deposited before this Court by way of a Fixed Deposit Receipt (FDR) in favour of the Registrar General of this Court, within two weeks from today.

10. Subject to the applicant paying/depositing the aforesaid amounts, the applicant shall be allowed free and unhindered access to the aforesaid premises/land and also to remove or bring in vehicles.

11. The application stands disposed of, in terms of the above.

I.A. 15950/2021 (u/O I R.10 of CPC)

12. In view of the order passed in I.A.2000/2022, the counsel for the applicant does not press the present application.

13. The application is dismissed as not pressed.

CS(OS) 237/2021, I.A. 6153/2021(O-XXXIX R-1 & 2 of CPC), I.A. 6154/2021 (O-XXXIX R-10 of CPC), I.A. 8104/2021 (of defendant no. 4 u/O-VII R-11 of CPC) & I.A. 8105/2021 (of defendant no. 4 u/O-XXXIX R-4 of CPC)

14. List before the Joint Registrar on 19th July, 2022, for marking of



documents.

15. List before the Court for framing of issues and disposal of pending applications on 10th October, 2022.

AMIT BANSAL, J

MAY 4, 2022

Sakshi R.