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

+ **CS(OS) 280/2024**

PAWAN KUMAR & ORS.

..... Plaintiffs

Through: Mr. Abhay Dixit, Mr. Akhilesh
Dixit and Mr. Harish, Advocates.

versus

JEET SINGH & ANR.

..... Defendants

Through: Mr. Vimal Kishore and Mr. Rajeev
Shukla, Advocates for D-1.
Mr. Jitender Vashisht, Advocate
for D-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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26.04.2024

CS(OS) 280/2024 & I.A. 7749/2024 (for ex-parte ad interim order)

1. Mr. Vimal Kishore, learned counsel enters appearance on behalf of defendant No.1 and Mr. Jitender Vashisht, learned counsel, enters appearance on behalf of defendant No.2.
2. At the very outset, Mr. Vashisht submits that defendant No.2 may be deleted from the array of parties as she has been arrayed only as a proforma defendant and no relief has been claimed against her. Mr. Abhay Dixit, learned counsel for the plaintiffs, accepts this position.
3. Learned counsel on both sides refer to the site plan at serial No. 3 of the plaintiffs' list of documents. They state that the suit is limited to the property on the right-hand side of the site plan, marked with the words "Plaintiffs and Defendant No.1". Defendant No.2 is the owner of

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the separate plot shown on the left-hand site of the site plan. Mr. Dixit states that the plaintiffs do not claim any interest in the property of defendant No.2. In view of the above, he submits that defendant No.2 may be dropped from the array of parties.

4. Defendant No.2 is, therefore, deleted from the array of parties. Amended memo of parties be filed by the plaintiffs within one week from today and be placed by the Registry in the pleadings folder of the suit.

5. As far as the plaintiffs' request for *ad-interim* relief is concerned, Mr. Kishore states that defendant No.1 is in a possession of the ground floor. According to him some construction is being carried out on the site by defendant No.1 in order to obviate difficulties arising out of poor drainage in the locality and overflow of sewage into the building. Mr. Dixit submits that the construction being carried out by defendant No.1, in fact, is in excess of this submission. However, in any event, Mr. Kishore states that defendant No.1 will not claim any special equities, arising out of any construction carried on the property, which will be without prejudice to the rights and contentions of the plaintiffs. In the event partition of the property is granted, the plaintiffs will not be liable to bear the costs of any such construction and will be entitled to their shares in the property, including the newly constructed portion as may be granted by the Court. Learned counsel for the parties state that status-quo will be maintained with regard to title and possession of the property, including any portion constructed by defendant No.1. Defendant No.1 is directed to file an affidavit of undertaking to the same effect within two weeks from today.

6. I.A. 7749/2024 is disposed of recording the aforesaid submission.



7. List the suit before the learned Joint Registrar on the date fixed i.e. 08.05.2024 for completion of pleadings, admission/denial of documents and marking of exhibits.
8. List before the Court on 09.10.2024.

PRATEEK JALAN, J

APRIL 26, 2024
SS/