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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 191/2020**
SHARAD KUMAR RASTOGIPlaintiff

Through: Mr.Karan Jain, Advocate

versus

KAUSHAL RASTOGI & ORS.Defendants
Through: Mr.Deeptakirti Verma, Advocate for
D- 1 and 2

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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07.10.2024

I.A. No. 41470/2024 (U/O 39 R 4 CPC by Defendant No.2)

1. By way of the present application, the applicant/defendant no.2 prays for vacation/modification of order dated 27.07.2020 whereby this Court had directed the defendants not to create any third party rights in the property bearing no. FF-2 on the First Floor (without roof rights) measuring 1488 sq. ft. super area out of freehold built up property bearing No.1/4 situated at East Patel Nagar, New Delhi-110008.
2. He submits that on account of aforesaid restraint order passed by this Court the suit property is lying vacant and the defendant no.2 is unable to derive any rental income from the same.
3. Issue notice.
4. Learned counsel appearing on behalf of the plaintiff/non-applicant accepts notice.



5. Notice be now issued to defendant no.3/non-applicant on defendant no.2 taking steps.
6. Reply to the application be filed within a period of three weeks. Rejoinder thereto be filed within two weeks thereafter.
7. Learned counsel appearing on behalf of the plaintiff/non-applicant submits that the plaintiff does not have any objection in case the said property is let out provided the rental income is deposited in the Court.
8. In view of the above, the defendant no.2/applicant is at liberty to identify a proposed tenant before the next date of hearing.
9. Renotify on 10.12.2024.

I.A. No.41471/2024 (U/O 39 Rule 4 CPC filed by Defendant No.1)

10. This is an application filed by the applicant/defendant no.1 seeking modification of the order dated 27.07.2020 whereby a direction given not to create any third party interest in the suit property, i.e., 5A/22, Ground floor and Mezzanine along with roof rights at Ansari Road, Daryaganj, New Delhi.
11. He submits that on account of aforesaid restraint order passed by this Court, the suit property is lying vacant and the defendant no.1 is unable to derive any rental income from the same.
12. Issue notice.
13. Learned counsel appearing on behalf of the plaintiff/non-applicant accepts notice.
14. Notice be now issued to defendant no.3/non-applicant on defendant no.1 taking steps.
15. Reply to the application be filed within a period of three weeks. Rejoinder thereto be filed within two weeks thereafter.
16. Learned counsel appearing on behalf of the plaintiff/non-applicant



submits that the plaintiff does not have any objection in case the said property is let out provided the rental income is deposited in the Court.

17. In view of the above, the defendant no.1/applicant is at liberty to identify a proposed tenant before the next date of hearing.

18. Renotify on 10.12.2024.

VIKAS MAHAJAN, J

OCTOBER 7, 2024

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