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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 328/2022, I.A 8914/2022, I.A 8915/2022**
DIWAN SAHEB FASHION PVT LTD

..... Plaintiff

Through: Mr. Jai Sahai Endlaw and Mr. Rajesh Goyal, Advocates.

versus

VIJAY BHUSHAN & ORS.

..... Defendant

Through: Mr. Sanjiv Kakra, Senior Advocate
along with Mr. Sanjeev Mahajan,
Advocate for defendant No.1 to 9.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
31.05.2022

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1. A suit for specific performance and injunction and in the alternate for recovery of damages is filed on behalf of the plaintiff.
2. Learned counsel for defendants accepts notice on behalf of defendants No.1 to 9. It is also submitted that in a suit for partition bearing no. CS(OS) 1093/2011 filed by the defendant No.10 as the plaintiff, against defendants No.1 to 9, a statement has already been given on behalf of defendants No.1 to 9 on 08.08.2011 that they shall not alienate, part with or sell the suit property till the disposal of that suit. It is submitted that defendant Nos.1 to 9 undertake to abide by the same statement in the present suit.
3. Learned counsel for the defendants no.1 to 9 has also pointed out that



defendant no.9 Master Rishikesh Aggarwal is a minor who has been sued through his mother and natural guardian Ms. Bhawna Aggarwal, however, no application under Order XXXII, Code of Civil Procedure, 1908 has been filed for seeking permission to sue the minor through guardian/ next friend.

4. Learned counsel for the plaintiff submits that he shall be moving an appropriate application seeking representation of defendant no.9 through next friend/ guardian.

5. An application bearing I.A No. 8914/2022 under Order XXXIX, Rules 1 and 2 read with Section 151 CPC has been filed by the plaintiff. Another application bearing I.A. No.8915/2022 under Section 151 CPC has also been filed by the plaintiff for conversion of the suit property into freehold and for payment of outstanding dues .

6. Learned counsel for the defendants No.1 to 9 accepts notice of the said applications.

7. Defendant No.10 be served with the summons of the suit and notice of the applications under Order XXXIX Rules 1 and 2, as well as the application under Section 151 CPC returnable on 05th July, 2022.

7. The connected suit CS(OS) No.1093/2011 be also listed along with this matter for the next date of hearing.

I.A. 8917/2022 (Seeking Extension of Time for filing Court Fee)

1. An application under Section 149 read with Section 151 CPC has been filed on behalf of the plaintiff seeking extension of time for filing the court fee.

2. Learned counsel for the plaintiff submits that the court fee would be filed today itself during the course of the day. The court fee be filed accordingly.



3. The application stands disposed of.

I.A 8916/2022 (Exemption from filing of Typed Copies of Dim and hand written annexures)

1. An application under Section 151 of CPC has been filed on behalf of the plaintiff seeking exemption from filing typed copies of dim annexures. However, it is submitted that the typed copies of all the annexures have already been filed.

2. Application is accordingly disposed of.

NEENA BANSAL KRISHNA, J

MAY 31, 2022/VA