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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS (COMM) 284/2019**

SHALU WALIA

..... Plaintiff

Through: Mr. Jasmeet Singh, Advocate.
(M:9810064790)

versus

ALOK NANDA & ORS.

..... Defendants

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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28.05.2019

I.A. 7974/2019 (exemption)

1. This is an application seeking exemption from filing original documents/certified copies. Recording the Plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed. I.A. is disposed of.

CS (COMM) 284/2019 & I.A. 7973/2019 (to appoint a receiver)

2. Let the plaint be registered as a suit.
3. Issue summons in the suit and notices in the application to the Defendants through all modes upon filing of Process Fee.
4. The summons to the Defendants shall indicate that the written statement(s) to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement(s), the Defendant shall also file the affidavit(s) of admission/denial of the documents of the Plaintiff, without which the written statement(s) shall not be taken on record.
5. Liberty is given to the Plaintiff to file the replication(s) within 15 days



of the receipt of the written statement(s). Along with the replication(s), if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiff, without which the replication(s) shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines prescribed under the Delhi High Court (Original Side) Rules, 2018.

6. List before the Joint Registrar for marking of exhibits on 1st October, 2019. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

7. List before Court on 13th August, 2019.

8. Let a copy of this order, along with the entire paper book be served on the Defendants with the summons.

I.A. 7972/2019 (u/O XXXIX Rules 1 & 2 CPC)

9. The Plaintiff – Ms. Shalu Walia has filed the present suit for recovery of Rs.4,66,50,000/- plus interest or in the alternative a decree of possession of the second floor of the Western portion of property bearing No.5/22, Roop Nagar, New Delhi (*`suit property`*).

10. Ld. counsel for the Plaintiff submits that she is the owner of the suit property, which was originally gifted in her favour. The property was ad-measuring 1331.13 Sq. Yards, and was divided into three separate portions i.e. Eastern portion of 451 Sq. Yards, Central portion of 400 Sq. Yards and Western portion of 480 Sq. Yards. The present suit only relates to the second floor on the Western portion of the property in respect of which an agreement to sell dated 3rd September, 2015 was entered into with the Defendants. As per the said agreement, in consideration of the amounts which were to be paid to the Plaintiff, the Defendants were to become the



owners of the second floor of the Wester portion of the suit property. However, it is the case of the Plaintiff that the Defendants failed to adhere to their obligations of payment and a substantial sum of Rs.4,66,50,000/- is still outstanding. Despite the said amount being outstanding and no sale deed having been executed by the Plaintiff in favour of the Defendants, it is stated that the Defendants appear to have parted with possession or created some kind of interest in the second floor of the suit property and handed over possession of the same to Defendant Nos.4 & 5. Hence, the present suit.

11. A perusal of the agreement to sell and the cheques issued by the Defendants, clearly, shows that the Defendants had to pay a sum of Rs.8 crores, out of which Rs.4,66,50,000/- is stated to be outstanding. Without the said payment being made and a sale deed being executed by the Plaintiff, the Defendants do not acquire any title or interest in the second floor of the suit property and could not have parted with the possession of the same. The Plaintiff has made out a *prima facie* case in her favour for grant of an interim injunction. Balance of convenience lies in favour of the Plaintiff and irreparable harm will be caused to the Plaintiff if the Defendants are not restrained. Accordingly, till the next date, the Defendants are directed to maintain *status quo* qua title and possession in respect of the second floor of the Western portion of the property bearing No.5/22, Roop Nagar, New Delhi. Compliance of Order XXXIX Rule 3 CPC be made within five days.

12. Reply to the application be filed within four weeks from service of the present order along with the paper book. List the application before Court on 13th August, 2019 for hearing. *Dasti*.

PRATHIBA M. SINGH, J.

MAY 28, 2019/dk

CS (COMM) 284/2019

Page 3 of 3