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

+ CS(OS) 274/2020

I.A. 8451/2020 (under Order XXXIX Rule 1 and 2 CPC)

I.A. 8452/2020 (under Order XXVI Rule 9 and Order XXXIX Rule 7 CPC seeing appointment of Local Commissioner)

I.A. 8453/2020 (under Section 151 CPC-seeking permission to file videos)

I.A. 8454/2020 (leave to file documents)

ANGAD SINGH REKHI & ORS. Plaintiff

Represented by: Mr.Sanjeev Sindhvani, Sr. Advocate
with Ms.Meenakshi Midha, Mr.Kapil
Midha, Ms.Pritika Juneja, Advocates

versus

SATBIR SINGH KOCHAR Defendant

Represented by: Mr.Manpreet Singh, Advocate

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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23.09.2020

The hearing has been conducted through video conferencing.

I.A.8454/2020 (exemption)

1. Exemption allowed subject to just exceptions.
2. Application is disposed of.

I.A. 8453/2020 (under Section 151 CPC-seeking permission to file videos)

1. By this application, the plaintiffs seek leave to file the videos through pen drive/CD etc.
2. Video films of the suit premises showing the manner in which the defendant is misusing the common area, be filed in a pen drive with the



Registry within two weeks.

2. Application is disposed of.

CS(COMM) 274/2020

I.A.8451/2020 (under Order XXXIX Rule 1 and 2 CPC)

1. Complaint be registered as a suit.

2. Issue summons in the suit and notice in the application to the defendant.

3. Mr.Manpreet Singh, learned counsel appearing for the defendant accepts summons in the suit and notice in the application.

4. List the suit and application on 22nd October, 2020 when the plaintiffs and defendant will be present in person through video conferencing.

5. Case of the plaintiffs is that the plaintiff Nos. 2 and 3 who are the parents of plaintiff No. 1, are the owners of the first floor of House No. J-56, Rajouri Garden, New Delhi-110027, second floor whereof is owned by the defendant. The ownership of the ground floor and the third floor is with two other parties. Grievance of the plaintiff is with respect to the defendant's occupying and misusing the common parking areas/stilt. The defendant closed the common main gate and in the main parking area, has kept refrigerator, garbage etc. Further, the defendant is not taking adequate care in the floor occupied by him, resulting in seepage and damage to the first floor of the suit property, which is owned by the plaintiff Nos. 2 and 3.

6. Plaintiffs have placed on record sufficient material in the form of photographs to show the manner in which, the first floor of the suit property is being deteriorated due to the seepage and leakage in the pipes etc.

7. Learned counsel for the plaintiffs states that to overcome the various problems between the parties living in the suit property, plaintiffs, defendant



and two other inhabitants of the suit property entered into an oral memorandum of understanding dated 29th December, 2019 which was circulated through Whatsapp on 31st December, 2019, copy whereof has been placed on record at page 90 of the documents, however, the said memorandum of understanding was not formally signed by any of the parties.

8. Considering the nature of disputes between the plaintiffs and the defendant besides the two other persons who are the owners of their respective floors with 1/4th indivisible rights in the suit property i.e. common area of stilt and parking area, the defendant cannot use the property in the manner so as to detriment the living of the plaintiffs or the other two inhabitants in the ground floor and the third floor of the suit property. Consequently, till the next date of hearing before this Court, the defendant is restrained from blocking the main gate and in case, locks are required to be put on the main gate in night, duplicate keys thereof will be handed over to the plaintiffs and other occupants so that all the occupants have access to the common areas. The defendant is also restrained from using the stilt/parking area for any other purpose except for parking the motor vehicles, scooters etc. and no other articles such as refrigerators, garbage etc. will be kept in the stilt area of the suit property by the defendant till the next date of hearing.

9. In the meantime, written statement to the suit and reply affidavit to the application along with the affidavits of admission-denial will be filed within two weeks. Replication and rejoinder affidavit along with the affidavit of admission-denial within one week thereafter.

I.A. 8452/2020 (under Order XXVI Rule 9 and Order XXXIX Rule 7 CPC



seeing appointment of Local Commissioner)

1. Considering the nature of allegations against the defendant and that there is a damage to the first floor of the suit property which is owned by the plaintiff Nos. 2 and 3 due to the misuse and mishandling of the second floor, where the defendant is residing and that the defendant is obstructing the plaintiff's passage and parking in the stilt by not only keeping goods such as refrigerators etc. but also locking the main gate as also throwing garbage, it is necessary to appoint a Local Commissioner to inspect the suit property.
2. Accordingly, Ms. Trisha Mittal, Advocate (Mobile No. 9871109553) is appointed as Local Commissioner to visit and inspect the suit property bearing House No. J-56, Rajouri Garden, New Delhi-110027. The learned Local Commissioner would take the photographs and videography of the stilt/parking as also the other common areas besides first floor and the second floor of the suit property so as to assist this Court in ascertaining the nature of damages caused to the property and obstruction and will file a report in this regard. The defendant is directed to cooperate with the learned Local Commissioner at the time of execution of the commission. The fee of the learned Local Commissioner is fixed at ₹75,000/- plus out of pocket expenses which shall be borne by the plaintiffs.
3. Application is disposed of.
4. Copy of the order be uploaded on the website of this Court.

MUKTA GUPTA, J.

SEPTEMBER 23, 2020/akb