



\$~7

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

+ **CS(OS) 106/2007**

SMT. SHASHI JAI KRISHNA & ANR. Plaintiffs

Through: Mr. Raman Kapur, Sr. Advocate with
Mr. Manish Kumar, Mr. Mohit and Ms. Aarohi
Sharma, Advocates

versus

SHRI DESH RAJ GUPTA & ORS. Defendants

Through: Mr. Manish Vashisht and Mr. Sameer
Vashisht, Advocates for D-1
Mr. Mohit Mathur and Mr. Dhritiman Roy,
Advocates for D-3
Mr. P.S. Bindra, Advocate for D-4

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

%

08.02.2017

IA 12270/2015 (u/S. 2(12) r/w. S.151 CPC

By this application, the plaintiffs seek a direction to the first defendant to pay mesne profits in respect of certain portion of the subject property to which he is said to be in exclusive use and possession. It is noted that the case at hand is one of the three cases which were clubbed together for purposes of recording of evidence by the earlier orders. By order dated 25.10.2010, issues were framed in the case at hand, the fourth issue concededly being with regard to the claim of the plaintiff for rendition of accounts in the context of certain directions that have been passed by the Local Commissioner to whom the recording of evidence is entrusted by proceedings drawn on

CS(OS) 106/2007

page 1 of 2



04.02.2016. The matter had come up before the court on 10.02.2016 and it was, *inter alia*, observed that the issue of mesne profits would be covered under the issue of rendition of accounts (fourth issue), which was framed on 25.10.2010. Though the directions in the said order dated 10.02.2016 as to the scope of the cross examination which was permitted by the learned single Judge were assailed before a division bench by FAO (OS) 92/2016, noticeably, in the order dated 22.08.2016 whereby the said appeal was disposed of there is no reference to exception being taken to the above position vis-a-vis the claim of mesne profits, the directions by the division bench only modifying the scope of cross-examination.

In these circumstances, it would not be correct to pass any directions in the matter on the prayer made in the application particularly when the recording of evidence is still not complete and there are competing claims vis-a-vis the property which would need to be adjudicated upon.

Therefore, the application is dismissed. It is clarified that the claim of the plaintiff to mesne profits would be considered and adjudicated upon at the final analysis.

CS(OS) 106/2007

The case is already listed before the Joint Registrar for recording of evidence on 16.03.2017. The file shall be laid before the court after completion of the recording of evidence.

R.K.GAUBA, J.

FEBRUARY 08, 2017

Yg