



\$~38

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

+ **CS(OS) 389/2024**

SMT NAMITA DEY & ANR.

..... Plaintiffs

Through: Mr. Praveen Kumar, Mr. Naman Mittal, Mr. Neeraj Pal, Mr. Shubham Verma, Mr. Keshav Chauhan, Mr. Sayeed Mohd. Fahim, Mr. Radhik Gupta, Mr. Aprajita Pal, Advs.

versus

SH DIBAKAR DEY & ANR.

..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

13.05.2024

%

I.A. 10834/2024

1. Exemption is granted subject to all just exceptions.
2. The plaintiffs shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.
3. The application is disposed of.

CS(OS) 389/2024

1. This is a suit seeking possession of the property bearing Flat No. 101, First Floor, in House No. 3/96, Khasra No. 79/3 & 79/4, admeasuring 101.44 Sq. yards consisting of three bed-rooms and one drawing-dining in the area of Palam Village, Delhi now known as Mahavir Enclave, New Delhi-110045. Further, the plaintiff is also seeking possession of property



No. C-117, admeasuring 52.1/2 sq. yards, out of total 105 sq. yards, comprising of three floors at Mayapuri, Rewari Line Industrial Area, Phase-II, New Delhi. (“*suit properties*”). In addition, plaintiff is also seeking a decree of mesne profits against the Defendant No. 1 who is using the suit properties to the detriment of the plaintiffs.

2. It is stated that the suit properties belong to husband of plaintiff No. 1 and father of plaintiff No. 2. Further, the suit properties are in illegal possession of defendant No. 1 who is the brother of the late husband of plaintiff No. 1. Defendant No. 2 is a tenant in one of the property in Mahavir Enclave. Despite repeated request, the defendants have not vacated the suit properties.

3. For the said reasons, let the plaint be registered.

4. Issue summons to the defendants on the plaintiffs taking steps within 1 week from today, returnable on 11.09.2024.

I.A. 10835/2024

5. This is an application under Order XXXIX Rule 1 and 2 of CPC seeking ad interim ex parte injunction directing the defendants to maintain *status quo* of the suit properties.

6. *Prima facie*, as per the averments of the plaintiffs, the suit properties belong to the late husband of the plaintiff No. 1 and late father of plaintiff No. 2. The suit properties are in possession of defendant Nos. 1 and 2. Despite repeated request, the defendants have not handed over vacant and peaceful possession of the said property.

7. It is also stated that the defendants are trying to further create third party rights and/or sell the suit properties.

8. Issue notice to the defendants on the plaintiffs taking steps within 1



week from today, returnable on 11.09.2024.

9. For the reasons noted above, I am of the view that the plaintiff has a *prima facie* case. Balance of convenience lies in favour of the plaintiff and if ad interim ex-parte orders are not granted, the plaintiff may suffer irreparable loss and injury which cannot be compensated in terms of money.

10. It is directed that the defendants and their agents, servants, legal heirs, attorneys, representative, employee, friends, associates etc. shall maintain *status quo* with regard to title and possession of property bearing Flat No. 101, First Floor, in House No. 3/96, Khasra No. 79/3 & 79/4, admeasuring 101.44 Sq. yards consisting of three bed-rooms and one drawing-dining in the area of Palam Village, Delhi now known as Mahavir Enclave, New Delhi-110045 and property No. C-117, admeasuring 52.1/2 sq. yards, out of total 105 sq. yards, comprising of three floors at Mayapuri, Rewari Line Industrial Area, Phase-II, New Delhi till the next date of hearing.

11. Provisions of Order XXXIX Rule 3 of CPC be complied within one week from today.

12. List on 08.07.2024 before Joint Registrar.

13. List on 11.09.2024 before Court.

JASMEET SINGH, J

MAY 13, 2024/DM

[Click here to check corrigendum, if any](#)