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

+ **CS(OS) 418/2021**

SH. HARBINDER PAL SINGH SABHARWAL & ANR. ... Plaintiffs

**Through: Mr. Jagjit Singh, Mr. Preet Singh and
Ms. Kalyani Arora, Advs.**

versus

M/S. VENUS GEMS AND JEWELS PVT. LTD.& ORS. .Defendants

**Through: Mr. Saurabh Kripal, Sr. Adv. with
Mr. Manan Verma, Mr. Siddharth
Arora and Ms. Jasleen Kaur, Advs.
for D-1&2.**

**Mr. Atin Shankar Rastogi,
Mr. Shivkant Arora, Mr. Rajesh
Ranjan and Mr. Aman Kapoor, Advs.
for D-3,4&6.**

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% 23.01.2024

I.A. 10237/2022 (For preponement of the date of hearing).

This is an application for early hearing.

For the reasons stated in the application, the application is allowed.

The application stands disposed of.

I.A.7851/2022 (for modification of order 28.02.2022).

The present application has been moved with the following prayer:-

“A) Modify the order dated 28.02.2022 by lifting the embargo imposed upon the Defendant No. 2 which does not allow him to visit the suit property after 9.00 PM;



B) *Pass other further order(s) as may be given which may deem fit and proper in the circumstances of the case and in the interest of justice.”*

Mr. Saurabh Kripal, learned senior counsel for the defendants no.1&2 states that on 28.02.2022 the following order was passed:-

- “1. At the request of the learned counsels for the parties, parties are referred to the Delhi High Court Mediation and Conciliation Centre for exploring possibility of an amicable settlement, where they shall appear on 10.03.2022 at 3.00 p.m.*
- 2. List before the Court on 19th May, 2022.*
- 3. In the meantime, the learned senior counsel for the defendant nos.1 and 2 submits that only to allay any fear or accusation, the defendant no.2 shall not visit the suit property after 9.00 pm. He assures the court that even earlier to that, if the defendant no. 2 has to visit the suit property, the gunman who is for the defendant no. 2's security otherwise, shall not enter the suit property. The defendant no. 2 is held bound by the above assurance.*
- 4. Interim order, if any, to continue.”*

Learned senior counsel submits that he had made the statement in peculiar circumstances as the matter was being sent for mediation and there was an earnest hope that the matter shall be settled.

Learned senior counsel submits that since the matter has not been settled therefore, he may be absolved from the undertaking given by him before the Court. However, learned senior counsel, on instructions, states that the defendant no.1 is a company and has authorised the defendant no.2 vide Board of Resolution dated 21st March, 2022; however defendant no.2 shall not visit with any gunman or any kind of weapon/*lathi/danda* in the



property no. No.28/B, Pusa Road, Old Rajinder Nagar, New Delhi - 110060 and shall not create any nuisance in the property.

Learned counsel for the plaintiffs submits that in view of the submission of the learned senior counsel for the defendants the order dated 28.02.2022 may be modified.

Submissions considered.

The defendant no.2 shall not visit the property no. No.28/B, Pusa Road, Old Rajinder Nagar, New Delhi - 110060 with any gunman or any kind of weapon including *lathi* or *danda* nor will defendant no.2 create any hindrance in the enjoyment of the property by the plaintiffs. In case the defendant no.2 creates any kind of actionable wrong, the plaintiffs shall be at liberty to proceed in accordance with law.

The application stands disposed of.

I.A. 757/2022 (u/O 39 R (2A) of CPC), I.A. 758/2022 (u/Order 39 R 1 AND 2 CPC).

List on 4th March, 2024.

CS(OS) 418/2021, IA No.11310/2021,, IA No.1792/2022 (u/O 39 R 4 CPC), IA No.4018/2023 (for condonation of 144 days delay in filing the written statement) & L.A. 13888/2023 u/S 151 CPC).

List on 25th April, 2024.

Interim order, if any, to continue.

DINESH KUMAR SHARMA, J

JANUARY 23, 2024

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