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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 440/2023 & I.As. 13737/2023, 8658/2024, 8891/2024,
9445/2024

PREETI MEHRA

..... Plaintiff

Through: Mr. Karan Balraj Mehta, Advocate.

versus

SUROMA BIPIN DAMANI

..... Defendant

Through: Mr. Varun Varma, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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10.05.2024

1. The defendant has filed I.A. 8658/2024 in respect of certain movable assets of the parents of the parties, which, according to the defendant, were lying in a bank locker [locker No. 3294 in State Bank of India, Parliament Street, New Delhi]. The locker is admittedly in the name of the plaintiff, the defendant and their late father.

2. According to the defendant, the plaintiff has operated the locker on 22.01.2024.

3. The defendant has therefore filed this application for the following reliefs:

“A. To direct the Respondent/Plaintiff to deposit all the missing jewelry and the other valuable items which were kept in Locker no. 3294 in SBI, Parliament Street by verifying the jewelry and other valuable items with the original handwritten list of jewelry and other valuable items as mentioned in Document 2 (Colly) in the Locker No. 3294.

B. To pass a direction to restrain the Respondent/Plaintiff to operate the Locker no. 3294 in SBI, Parliament Street and the other joint bank accounts which is jointly owned by the Defendant, Plaintiff and their father.



C. To direct the Respondent/Plaintiff for compensating the Applicant/Defendant by paying a lumpsum amount of Rs. 5 Lakhs for the sheer harassment with the Applicant/Defendant and for the willful disobedience of this Hon'ble Court order dated 27.07.2023.

D. To punish the Respondent/Plaintiff by invoking the punitive aspect of Order 39 Rule 2A of the CPC 1908 for the breach and willful disobedience of this Hon'ble Court status quo order dated 27.07.2023 by the Respondent/Plaintiff on two occasion i.e. a) by deliberately installing the gate valve on the water pipe in December 2023 for controlling the overhead tank water supply of the ground floor with the aim of harassing and depriving the Applicant/Respondent with no source of water to sustain and live on the Ground Floor of the suit property, b) by visiting, operating, accessing and removing the jewelry and the other valuable items from the joint bank locker no. 3294 in SBI, Parliament Street between the Applicant, Respondent and their father.

E. To pass such orders as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.”

4. The order of injunction dated 27.07.2023, reads as follows:

“1. By way of the present application filed under Order XXXIX Rules 1 and 2 read with Section 151 CPC, the plaintiff has sought directions and injunction in favour of the applicant/plaintiff and against the defendant, her servants, agents, heirs, successors, representatives, administrators, assigns and attorneys etc. from changing the nature of the suit property, and further restraining and injuncting them from alienating, disposing off, transferring, mortgaging, parting with possession or creating any third-party interest in the suit property i.e., B-5/106, Safdarjung Enclave, New Delhi -110029 during pendency of the present suit.

2. In view of the above, the parties are directed, in the present suit, to maintain status quo as to the title and possession of the suit property, with respect to both movable and immovable properties till the next date of hearing.

3. Counter affidavit to the application may be filed within four weeks. Rejoinder thereto, if any, may be filed within three weeks thereafter.

4. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be complied with within one week.”

5. Having regard to the terms of the order dated 27.07.2023, prayer D in the application is not pressed by learned counsel for the defendant.



6. It is admitted in the reply filed by the plaintiff, that the locker was operated as alleged. Learned counsel for the plaintiff states that when the bank locker was operated on 22.01.2024, some jewellery was lying therein, although he does not know whether the jewellery is still in the locker or is with the plaintiff. The plaintiff may file an affidavit within three days, disclosing the inventory of jewellery which was lying in the locker and its present location.

7. For the present, both parties are directed not to operate any bank lockers or to deal with any movable assets of the deceased.

8. Learned counsel for the parties are agreed that the properties of the parents, both movable and immovable, are liable to be partitioned in the ratio of 50% each.

9. As far as the immovable property is concerned [*B-5/106, Safdarjung Enclave, New Delhi -110029*], a preliminary decree is passed with the consent of the parties, declaring their shares in the property at 50% each. Decree sheet be prepared accordingly.

10. As far as the movable properties are concerned, a question arises as to the inventorisation of the movable properties and division thereof.

11. Although an earlier attempt at mediation has been unsuccessful, at the request of the Court, Mr. Sudhanshu Batra, learned Senior Counsel, has graciously agreed to attempt mediation between the parties once again. The mediation proceedings are intended to settle the modalities of partition of the immovable property, as also the inventorisation and partition of the movable properties. The parties will appear before the learned mediator personally, and with their counsel if they so desire, on 13.05.2024 at 03:00 PM, in Samadhan, Delhi High Court Mediation and



Conciliation Centre, Shershah Road, New Delhi-110503.

12. It is made clear that if any locker is required to be operated for the purposes of inventorisation, it will be operated by the parties jointly or in each other's presence.

13. List on 20.08.2024.

PRATEEK JALAN, J

MAY 10, 2024

"Bhupi"/