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

+ CS(OS) 413/2024, I.A. 29447/2024, I.A. 32728/2024, I.A. 32784/2024, I.A. 48106/2024, I.A. 48107/2024, I.A. 48118/2024

RUPA SHARMA

.....Plaintiff

Through: Mr. Chaman Choudhary, Adv.

versus

DEEPAK KRISHAN TEWARI AND ANR

.....Defendants

Through: Mr. Tanmaya Mehta, Mr. Ashutosh Nagar, Mr. Ishaan Harlalka and Mr. Kunal Taneja, Advs.

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+ CS(OS) 455/2024. I.A. 30873/2024, I.A. 30874/2024, I.A. 37839/2024 and I.A. 44853/2024

DEEPAK KRISHAN TEWARI & ANR.

.....Plaintiffs

Through: Mr. Tanmaya Mehta, Mr. Ashutosh Nagar, Mr. Ishaan Harlalka and Mr. Kunal Taneja, Advs.

versus

MRS RUPA SHARMA & ANR.

.....Defendants

Through: Mr. Chaman Choudhary, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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07.02.2025

I.A. 32727/2024 (filed by the defendants seeking clarification in relation to the order dated 17.05.2024) in CS(OS) 413/2024



1. The Court takes note of the averments made in the plaint which states that the parties had agreed to the following arrangements:

- (a) The ground floor with basement would be allotted to the plaintiff.
- (b) Third floor with terrace would be allotted to Defendant No.1.
- (c) Second floor would be allotted to the builder in lieu of his investing money in putting up the construction.
- (d) The first floor will be shared equally between the Plaintiff and Defendant No.1

2. The note to the Schedule to the suit property Item II is also taken note of and the same includes the entire built-up structure comprising of the basement floor, ground floor, and 50% of the first floor in the property described in Schedule Item I of the said schedule with 38.75% of the undivided share in the land described in schedule item I of the schedule and 37.5% of the share of the stilt area, open area, setbacks, and driveways at stilt floor for parking.

3. For the sake of clarity, the averments made in the plaint which have been paraphrased hereinabove, read as under:

- “(a) The ground floor with basement would be allotted to the plaintiff.*
- (b) Third floor with terrace would be allotted to Defendant No.1.*
- (c) Second floor would be allotted to the builder in lieu of his investing his money in putting up the construction.*
- (d) The first floor will be shared equally between the Plaintiff and Defendant No.1”*

4. The schedule to the suit property is also extracted as under:

“SCHEDULE OF THE SUIT PROPERTY

ITEM I

All that plot of land being the residential Plot No. 12, in Street No. A/6, in the layout plan of Vasant Vihar of the Government servant (CHBS Ltd)



and measuring 258.00 sq yards or thereabouts and bounded as follows:

North : Plot No. 13 (thirteen)
East : 15" wide service road
South : Plot No. 11 (Eleven)
West : Street No. A/6 (30" wide)

Item II

Entire built up structure comprising of the Basement Floor, Ground Floor and 50% of the First Floor in the property described in the Schedule item I hereinabove along with :-

38.75% of the undivided share in the land described in Schedule item I above

And

3 7.5% of the share of the stilt area, open area, setbacks, and driveways at stilt floor for parking.

Sd-

PLAINTIFF”

5. Additionally, Mr. Tanmaya Mehta, learned counsel appearing for the defendants in CS(OS) 413/2024 also tries to emphasize certain interpretations of the plaintiff, which also establishes that the third floor with terrace of the property bearing No.A-6/12, Vasant Vihar, New Delhi-110057 cannot be construed to be the suit property.

6. He submits that so far as the proportionate land over which the property is to be constructed is concerned, the same will remain subject to the dispute with respect to the suit property as described in the schedule, However, according to him, the floor and the terrace remain undisputed.

7. He then explains that on account of inadvertence in the *ex parte*



interim order dated 17.05.2024, the Court directed to maintain the *status quo* regarding the possession of the entire property bearing No. A6/12, Vasant Vihar, New Delhi-110057. He, thus, contends that on account of the aforesaid restraint, the defendant Nos.1 and 2 are unable to utilize their undisputed property i.e., the third floor and terrace.

8. Having considered the aforesaid submissions, the Court clarifies that the interim order dated 17.05.2024 shall not be applicable to the third floor, terrace, and proportionate land thereto.

9. With the aforesaid modification, the application stands disposed of.

CS(OS) 413/2024, I.A. 29447/2024, I.A. 32728/2024, I.A. 32784/2024, I.A. 48106/2024, I.A. 48107/2024, I.A. 48118/2024
CS(OS) 455/2024, I.A. 30873/2024, I.A. 30874/2024, I.A. 37839/2024 and I.A. 44853/2024

10. Let pleadings with respect to all the pending applications be completed, if any.

11. List these matters on 12.08.2025.

PURUSHAINDR KUMAR KAURAV, J
FEBRUARY 7, 2025/P/MJO

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