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

+ CS(OS) 509/2023, I.A. 15991/2023, I.A. 17399/2023, I.A. 22663/2023, I.A. 29688/2024 & I.A. 30803/2024

JASWANT SINGH GOHEL

.....Plaintiff

Through: Mr. Nimish Chib, Advocate

versus

HARKISHAN SINGH GOHEL & ORS.

.....Defendants

Through: Mr. Sanjeet Singh and Harkirat Singh
(Defendant no.2) in person
Mr. Piyush Arora, Adv. for D-1 and
D-3

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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11.11.2024

I.A. 22663/2023 (Application under Order XXXIX Rule 2A CPC by the plaintiff)

I.A. 29688/2024 (for restoration of the status quo ante of the suit property as on 23.08.2024)

1. The parties have addressed their submissions.
2. Learned counsel for the non-applicant/defendant no. 2 states that the plaintiff was occupying the first floor of the property bearing No.6/89-90, Malviya Nagar, New Delhi-110017 i.e., the suit property as a licensee of the defendant no. 2 as it was the intention of the parties that the plaintiff will construct the third floor and thereafter, move to the third floor after vacating the first floor, which fell into the share of defendant no.2 as per the registered Memorandum of Settlement dated 02.03.2022.



2.1 He states that the defendant no. 2 is willing to permit the plaintiff to reside on the first floor of the suit property, subject to plaintiff maintaining decorum considering the fact that defendant no. 2's family members also reside on the said floor from time to time during their visit to India.

3. In reply, learned counsel for applicant/plaintiff states that the plaintiff undertakes to maintain decorum and remain conscious of the fact that the defendant no.2's family members also reside on the first floor of the suit property during their visits to India. He states that plaintiff should be permitted to use the first floor of the property during his visits to India as he was doing prior to 23.08.2023.

4. The statement of the plaintiff and defendant no. 2 is taken on record.

5. The application is disposed of recording that the plaintiff will have a right as a licensee to occupy the first floor of the suit property during his visits to India and he will at all times maintain decorum qua the use of the first floor of the suit property.

6. The permission granted to the plaintiff is under the aegis of this Court's orders and plaintiff and defendant no. 2 shall remain bound by the same.

7. In view of the aforesaid arrangement, no further directions are necessary in these applications and the same are accordingly disposed of.

I.A. 17399/2023 (for seeking appropriate directions filed on behalf of defendant no. 2)

8. Learned counsel for the applicant/defendant no. 2 states that in view of the orders passed today in I.A. 22663/2023, I.A. 29688/2024, the reliefs sought in this application have become infructuous.

9. The application is accordingly disposed of.



I.A. 15991/2023 (under Order XXXIX Rules 1 and 2 CPC for ex-parte ad-interim injunction)

10. Learned counsel for defendant no. 1, defendant no. 2 and defendant no. 3 state that neither party intends to create any third-party rights in the suit property during the pendency of these proceedings.

11. The statement of the parties is taken on record and they are bound down to the same.

12. In view of the above, the application stands disposed of.

CS(OS) 509/2023

I.A. 30803/2024 (on behalf of defendant nos. 1 and 3 under Order VII Rule 11 CPC for rejection of plaint)

13. The parties are directed to remain present in Court on the next date of hearing. The parties should be ready to consider a proposal of construction of the third floor with joint contribution, considering the fact that the Memorandum of Settlement relied upon by each of the parties refers to an existence of third floor, whereas the fact of the matter is that there does not exist a third floor.

14. The plaintiff and defendant no. 2 have stated that they are willing to contribute towards the construction of a third floor if defendant no. 1 and defendant no. 3 also contribute equally.

15. List on **20.02.2025**.

MANMEET PRITAM SINGH ARORA, J
NOVEMBER 11, 2024/msh/sk

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