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

+ **CS(OS) 457/2020 and I.A. 6888/2024**

**MS. ARUN SAINI @ GUDDI (NEE ARUN BALA  
JAIN)**

..... Plaintiff

Through: Mr. Barun Kumar Sinha, Advocate  
with Mrs. Pratibha Sinha, Advocate  
(M: 9711401792).

versus

**SHRI NIRMAL KUMAR JAIN & ANR.**

..... Defendants

Through: Ms. Leena Tuteja Adv. alongwith  
Ms. Ishita Kadyan Adv. for D-1 (M:  
9999505508).

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **22.03.2024**

1. This hearing has been done through hybrid mode.

**I.A. 6888/2024 (u/S. 151 CPC)**

2. This is an application by Defendant No. 1 under Section 151 of the CPC, seeking permission to enter the suit property to repair the water pipe that has burst. This dispute underlying the present suit involves siblings concerning the suit property bearing No. B-220, Saraswati Vihar, Pitampura, Delhi.

3. In the present suit, an interim order was passed on 24th December, 2020 in the following terms:-

*“9. Considering the consideration for the sale of the property admeasuring around 200 sq. yards in Pitampura in the year 2005 being a paltry sum, this Court directs that the suit property be not encumbered/ sold/ alienated nor any third party rights be created by*



*the parties including defendant No. 1 till the next date of hearing before this Court.”*

4. The Defendant No. 1 had filed applications bearing Nos. I.A.s 4604/2021 & 1101/2023, alleging that the Plaintiff had illegally placed her own locks and sealed the suit property. This issue was addressed vide order dated 17th February, 2023, in which the Court directed as follows:

*“11. The basic dispute between the parties is the averment of the defendant no. 1 that the plaintiff, n in the garb of the ad interim order dated 24.12.2020, has put her own locks and seal on the suit property. The learned senior counsel for the defendant no.1 submits that in this manner, the plaintiff seeks to show her possession over the suit property. He further submits that the plaintiff has also displayed a public notice on the premises. He, however, fairly admits that the defendant no.1 is not residing in the suit property and the suit property is lying vacant. He further submits that the defendant no.1 shall not, in any manner create any third party interest in the suit property, or part with possession thereof to any third party, or enter the Suit property, without seeking prior approval from this Court.*

*12. In view of the statement made hereinabove and binding the defendant no. 1 thereto, the plaintiff, without prejudice to the rights and contentions, of the plaintiff and without prejudice to her claim that she is in joint possession of the Suit property, shall remove the locks and seal that have been placed on the suit premises as also the public notice that has been put in the suit premises, within a period of four weeks.*

*13. It is also made clear that this Court while directing the above has not expressed any opinion on the merits of the submission made by the learned counsel for the plaintiff or the defendant no.1 on the possession of the property. This order has been passed on the statements made by the learned senior counsel for the defendant*



*no. 1 and keeping in view that the defendant no. 1 has a Sale Deed dated 19.08.2005 in his favour, which of course is in challenge in the present suit.*

*14. The interim order dated 24.12.2020 shall also operate during the pendency of the present suit.”*

5. This order was challenged by the Plaintiff in **FAO(OS) 42/2023** titled ‘**Ms. Arun Saini @ Guddi v. Shri Nirmal Kumar Jain**’ where the said order was modified vide order dated 11th January, 2024 in the following terms:-

*“3. This Court is of the view that the offer made by learned senior counsel for the appellant is fair and reasonable.*

*4. Accordingly, the present appeal along with the applications is disposed of with a direction to the appellant to remove her locks, seal as well as the notice placed on the suit property. The respondent no.1 is directed to place his own locks on the suit property. **Respondent no.1 is also appointed as a receiver. It is further directed that one-third of the maintenance expenses of the suit property shall be borne by the appellant. It is clarified that the property in question shall not be used by any of the parties without seeking prior permission from the learned Single Judge.***

*5. This Court further clarifies that it has not commented on the merit of the controversy. The rights and contentions of all the parties are left open.”*

6. As per the above order, the Defendant No. 1-Shri Nirmal Kumar Jain has been appointed as the receiver by the Court and has been permitted to put his locks on the suit property. Further, one-third maintenance is to be borne by the Plaintiff in terms of the said order.

7. The present application seeks permission to enter the suit property for repair of a water pipe. Accordingly, the Defendant No. 1 is permitted to repair the water pipe in the suit property in the capacity of a receiver of the



Court, as directed by the Id. Division Bench vide order dated 11th January, 2024.

8. The said repairs can be undertaken by the Defendant No. 1 tomorrow, i.e., on 23rd March, 2024, at 3.00pm.

9. Any authorised representative on behalf of the Plaintiff is permitted to remain present at the suit property at the said time. The Defendant No. 1 shall bring a plumber or any other labourer who may be required to repair the water pipe. The present order shall not create any equities in favour of either of the parties.

10. The Defendant No. 1 and the authorised representative of the Plaintiff shall document the repair process through photographs or video recordings before, during, and after the repairs. A report of the repair work (along with photographs or videos), including the nature of the repairs shall be submitted to the Court within seven days of the completion of the work.

11. Application is disposed of.

**CS(OS)-457/2020**

12. List before the Joint Registrar on 15th April, 2024 and 11th July, 2024.

13. List before the Court on 23rd April, 2024.

14. Order *dasti* under the signature of the Court Master.

**PRATHIBA M. SINGH, J.**

**MARCH 22, 2024**

*mr/dn*