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

+ **CS(OS) 603/2022 & I.A. 15969/2022**

SMT RASHMI KATYAL

.....Plaintiff

Through: Mr. H.S. Sharma and Mr. Varun
Sharma, Advs with plaintiff and her
husband Mr. Sanjay Katyal in person

versus

SMT CHANDER KANTA

.....Defendant

Through: Mr. Sajal Dhamija, Adv. with
defendant and her husband Mr.
Dharam Vir Dhingra in person
Ms. Gauri Puri, Local Commissioner

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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12.09.2024

1. This order is being passed in continuation of the order dated 27.08.2024.
2. Learned counsel for the defendant states on instructions that defendant is ready to refund the amount of Rs. 20 lakhs, subject to plaintiff handing over vacant and peaceful possession of the property bearing no. B-IV/24, First Floor, Old Double Storey, Lajpat Nagar, New Delhi ('suit property') along with its toilet portion with superstructure standing thereon.
 - 2.1. He states that the superstructure consists of 1st floor, 2nd floor, 3rd floor, 4th floor and terrace.
 - 2.2. He states that Ms. Gauri Puri, Advocate had been appointed as Local Commissioner in the other civil suit pending before the Trial Court and has



submitted three Local Commissioner's reports; and defendant would be satisfied, if the same Local Commissioner is appointed to visit the suit property again as she is familiar with the dispute as well as the property. He states the Local Commissioner be authorized to identify the portions of the suit property on 1st floor, 2nd floor, 3rd floor and 4th floor and thereafter, the peaceful and vacant possession of the identified portions of the suit property be handed over to the defendant. He states that the identification may require demarcation.

3. In reply, learned counsel for the plaintiff states that he as well is agreeable to the appointment of Ms. Gauri Puri as a Local Commissioner again. He states that plaintiff is the owner of the remaining 50% of property bearing no. B-IV/24, First Floor, Old Double Storey, Lajpat Nagar, New Delhi. He states that due to the disputes between the parties the defendant herein has put locks even on the remaining 50% of the suit property, which is in the ownership of the plaintiff. He states, thus all rooms on 2nd floor, 3rd floor and 4th floor have locks of the defendant as well.

4. Learned counsels appearing for the plaintiff and defendant both jointly state that all locks on each room of the entire property on 1st floor, 2nd floor, 3rd floor and 4th floor will be unlocked for the complete inspection of the Local Commissioner, to enable her to carry out a demarcation of the entire property and identify two separate portions of 50-50 each on each floor, so as to facilitate handover of the possession of distinct 50% portions respectively to the plaintiff and to the defendant.

5. In the facts noted above, this Court is satisfied that this is fit case for appointment of a Local Commissioner. The matter was passed over to secure the presence of Ms. Gauri Puri, Advocate and taken up again at 2nd



call.

6. With the consent of the parties, Ms. Gauri Puri, Advocate [Enrollment No. D/1 753/2012] [Mobile No. 9899339554] is appointed as a Local Commissioner to visit the subject property for inspection, demarcation and identification of distinct 50% portions of the plaintiff and the defendant on the 1st floor, 2nd floor, 3rd floor and 4th floor of the entire property. The Local Commissioner shall demarcate and identify the distinct portions on each floor so as to enable handover of separate portions to the plaintiff and the defendant respectively.

7. Learned Local Commissioner requests for assistance of a draughtsman to carry out demarcation and ensure that the site plan is prepared to scale for the record. The said request is reasonable and acceptable to the parties. It is thus, clarified that the Local Commissioner will be at liberty to engage the services of draughtsman to carry out demarcation and preparation of site plan, etc.

8. It is directed that after demarcation is complete and separate portions identified, the Local Commissioner will fix new locks on the 2nd floor, 3rd floor and 4th floor of the entire property and deposit the keys to the new locks with the registry.

9. The Local Commissioner will also carry out demarcation of the 1st floor, identify the portions and prepare a site plan for the said floor and also record the use of the portions existing on the 1st floor in the report and the site plan. However, since the 1st floor is being used by the plaintiff and the defendant, the said 1st floor will not be locked-out. However, the possession of the parties will be recorded in the report and on the site plan. It is clarified that no order for locking up the 1st floor has been issued in this order.



10. This Court deems it appropriate to direct the concerned Junior Engineer of Municipal Corporation of Delhi (MCD) to remain present on **19.09.2024** at **02:00** PM, so as to enable the Local Commissioner to carry out the local commission especially identification of the suit property.
11. Copy of the order be sent to Mr. Manu Chaturvedi, standing counsel for MCD for compliance.
12. The Local Commissioner is at liberty to take assistance of photographer/videographer during inspection of the suit property.
13. With the consent of Local Commissioner and parties, the local commission shall be executed on **19.09.2024** at **02:00** PM. The parties shall remain present on the said date and time; and if necessary local commission can continue on 20.09.2024.
14. The Local Commissioner's fee is fixed at Rs. 50,000/-.
15. The fee of the Local Commissioner, the fee of the draughtsman, the costs of the photographer/videographer shall be borne by both the parties equally. Parties shall bear the expenses equally for travel of the Local Commissioner, along with other miscellaneous out-of-pocket expenses for the execution of the Commission. Local Commissioner's fee shall be paid on 19.09.2024 by the parties at the conclusion of the commission. The fee of the draughtsman and costs will be paid by the parties within one (1) week of communication of the fee and costs by the Local Commissioner.
16. Local Commissioner shall file the report within one (1) week from the date of completion of the Local Commission after serving the parties. The report will be filed on or before 30.09.2024.
17. After the report of Local Commissioner is received by the parties, the defendant will deposit an amount of Rs. 20 lakhs with the Court within a



period of one week. Upon deposit of Rs. 20 lakhs, necessary orders for handing over of the vacant possession of separate portions of the entire property on 1st floor, 2nd floor and 4th floor to the parties respectively and refund of Rs. 20 lakhs to the plaintiff will be passed by this Court.

18. This Court has been apprised that in the other suit¹ between the parties an order directing status quo as regards possession with respect to 2nd floor, 3rd floor and 4th floor of the entire property has been directed vide order dated 19.02.2022. The parties have clarified that the parties in the civil suit and the captioned suit are identical. There is therefore, no impediment in passing the present order with the consent of the parties.

19. List on **11.11.2024** in *supplementary* list.

20. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
SEPTEMBER 12, 2024/hp/ms

Click here to check corrigendum, if any

¹ CS No. 841/2021 titled as **Chander Kanta v Rashmi Katyal** pending in South-East District, Saket Courts, Delhi