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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 665/2022 & I.A. 17489/2022 (O-XV A R-1 of CPC)**

BASANT KUMAR JAIN Plaintiff
Through: **Mr. Sudhir Nagar, Advocate.**

versus

ANUJA HOODA JAIN & ANR. Defendants
Through: **Mr. Manu Padalia, Advocate for D-2.**

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

ORDER
28.10.2022

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I.A. 17490/2022 (for exemption)

1. Subject to the plaintiff filing the original/ certified/ legible/ typed copies of the documents on which the plaintiff may seek to place reliance, within four weeks from today, exemption is granted for the present.
2. The application is disposed of.

CS(OS) 665/2022

3. Let the plaint be registered as a suit.
4. Issue summons in the suit.
5. Summons in the suit are accepted on behalf of the counsel for the defendant no.2.
6. Summons be issued to the defendant no.1 through all modes.
7. The written statement(s) shall be filed within thirty days from the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiff.



8. Liberty is given to the plaintiff to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiff, affidavit of admission/denial of the documents of the defendants be filed by the plaintiff.

9. List before the Joint Registrar on 19th January, 2023 for completion of service and pleadings.

10. List before the Court on 18th April, 2023.

I.A. 17488/2022 (O-XXXIX R-1 & 2 of CPC)

11. The present suit has been filed seeking a decree of possession and damages and *mesne* profits in respect of property being C-90, Pushpanjali, Delhi-110092 (suit property).

12. The suit property belongs to the plaintiff and he permitted his son and daughter in-law i.e., defendants no.2 and 1 respectively, to reside in the suit property. Thereafter, disputes arose between the parties and in the year 2018, the plaintiff was constrained to leave his own house and live in an old age home.

13. Eviction petition has been filed on behalf of the plaintiff against the defendant no.1 and proceedings in respect thereof are pending in WP(C) No.7915/2020 before this Court.

14. Counsel for the plaintiff submits that *de hors* the pendency of the said Writ Petition, the present suit is maintainable as the plaintiff is the owner of the suit property.

15. Issue notice.

16. Notice is accepted on behalf of the counsel for the defendant no.2.

17. Notice be issued to the defendant no.1 through all modes.

18. Reply(ies) be filed within four weeks.



19. Rejoinder(s) thereto, if any, be filed within two weeks thereafter.
20. A *prima facie* case is made out on behalf of the plaintiff. Consequently, till the next date of hearing, the defendants are restrained from creating any third party rights and interest in respect of the suit property.
21. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) be done within five days.
22. List before the Joint Registrar on 19th January, 2023 for completion of service and pleadings.
23. List before the Court on 18th April, 2023.

AMIT BANSAL, J.

OCTOBER 28, 2022
at