



\$~11

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

+ **CS(OS) 699/2022**

DR. KAVITA RUPRAIL

.....Plaintiff

Through: Mr. Tanmaya Mehta, Mr. Divyansh
Rathi and Ms. Sumedha Sindhu,
Advocates

versus

KUNAL KWATRA & ORS.

.....Defendants

Through: Mr. P. K. Rawal, Advocate for D-1
Mr. Tarun Agarwal, Advocate for D-3
Mr. Ankur Mahindro, Mr. Rohan
Taneja, Mr. Soumil Gnsalves, Mr.
Aditya Kapoor and Mr. Prithvi
Thakur, Advocates for D-5 to D-7

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **17.12.2024**

I.A. 48577/2024 (Application under Section 151 of CPC seeking urgent directions)

1. This is an application filed by defendant nos. 5 to 7 to take possession of the machinery, equipment's and other belongings of defendant nos. 5 to 7 kept at the terrace of plots bearing No. 78, 78/1, 81/1 and 81/2, Block No. 2, WHS, Kirti Nagar, New Delhi – 110015.
2. Learned counsel for the non-applicant/plaintiff states that he has no objection to this relief sought in the application.
3. Learned counsels for the defendant nos. 1 and 3 as well states that he has no objection to the removal of the equipment and machinery, which is



lying on the terrace of the said plots.

4. In view of these submissions, the application is allowed and defendant nos. 5 to 7 are permitted to take possession of the machinery equipment and other belongings of defendant nos. 5 to 7, which are lying on the terrace at the cost of defendant nos. 5 to 7.

5. In this application, the applicant/defendant nos. 5 to 7 also seeks a direction to the Local Commissioner appointed by this Court vide order dated 11.09.2024 to provide estimate for cost of completion of works i.e. building partition wall upon demolition of existing pillars, which as per the Local Commissioner are obstructing the completion of work.

6. With respect to this relief, the Local Commissioner is directed to give an estimate within 10 days of the removal of the machinery equipment and other belongings from the terrace of the said plots.

7. With the aforesaid directions, this application stands allowed.

CS(OS) 699/2022

8. Learned counsel for the plaintiff states that the record of the registry would show that all efforts to serve the newly impleaded defendant No. 2 (a) Smt. Krishna have been taken, at the given address. However, notice to Smt. Krishna remains unserved.

9. He states that Smt. Krishna is the grandmother of defendant nos. 1 and 3; however, the proceedings are being delayed due to her non-service.

10. In these peculiar facts, since service on defendant No. 2 (a) through the all modes has been unsuccessful, issue fresh summons to Smt. Krishna through the concerned SHO having jurisdiction over her address with a direction to remain personally present in Court on the next date of hearing.

11. It is also made clear that the cost for effecting service on Smt. Krishna



through the concerned SHO will be recovered from defendant no. 2(a) and to this extent, the concerned SHO will also give a bill of cost to this Court.

12. Learned counsel for the plaintiff states that the joint document schedule has not been finalized between the parties despite passage of six (6) months.

13. He states that defendant nos. 1 and 3 have without seeking leave of this Court has filed additional documents on 25.09.2024 vide e-diary no. 415645. He states that since those documents do not form part of the record, they cannot be included in the joint document schedule.

14. Learned counsel for the defendant nos. 1 and 3 fairly concedes that there is no application seeking leave of the Court for taking the said additional documents on record. He states that he will take instructions if an appropriate application has to be filed.

15. However, keeping in view, the aforesaid admitted position, the said documents filed by defendant nos. 1 and 3 vide e-diary no. 415645 are directed to be taken off the record.

16. The parties are directed to file her joint document schedule within a period of two (2) weeks. It is made clear that if defendant nos. 1 and 3 do not sign joint document schedule, the Ld. Joint Registrar is requested to proceed with the Joint Document Schedule filed by the plaintiff.

17. List the matter before the Ld. Joint Registrar on **07.02.2025**.

I.A. 42530/2024 (Under Section 151 CPC by defendant nos. 1 directing plaintiff to withdraw amended memo of parties dated 26.08.2024)

I.A. 42531/2024 (Under Section 151 CPC by defendant nos. 3 directing plaintiff to withdraw amended memo of parties dated 26.08.2024)

18. Learned counsel for the applicant/defendant no. 1 states that the basis



on which the application has been filed was erroneous and therefore, he has instructions to unconditionally withdraw the said applications.

19. The applications are accordingly dismissed as withdrawn without liberty reserved.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 17, 2024/rhc/ms