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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 699/2022 & I.A. 21954/2023**

DR. KAVITA RUPRAIL Plaintiff

Through: Mr. Tanmaya Mehta, Mr. Divyansh
H. Rathi, Mr. Sumedh Sindhu and
Ms. Riya Rathi, Advs. (M.
9990987000)

versus

KUNAL KWATRA & ORS. Defendants

Through: Mr. Ankur Mahindro, Mr. Ankush
Satuja, Mr. Rohit Bishnoi, Advs. for
D-5-7 (M. 9784008086)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **09.01.2024**

1. This hearing has been done through hybrid mode.
2. The present suit has been filed by the Plaintiff-Dr. Kavita Ruprail seeking reliefs of declaration, recovery of possession, damages, mesne profits, and injunction in respect of the plots no. 81/1 and 81/2, Block No. 2, WHS, Kirti Nagar, New Delhi-110015 (*hereinafter*, 'suit property'). The aforesaid two plots are stated to have been owned by the father of the Plaintiff and have subsequently been gifted in favor of the plaintiff *via* Gift Deeds dated 3rd December, 2021. The Plaintiff's father and his brother, were using the suit properties and the adjoining plots no. 78 and 78/1, Block No. 2, WHS, Kirti Nagar, New Delhi-110015, owned by the brother of the father of the Plaintiff for running a banquet business.

I.A. 21954/2023 (u/O XXXIX Rule 4)

3. This is an application filed by the Defendant Nos. 5 to 7 i.e. M/s.



Ecstasy Hotels Pvt. Ltd., Ms. Nidhi Kumar, Ms. Nirriti Kumar under Order XXXIX Rule 4 CPC by which the Defendant Nos. 5 to 7 pray for modifying the interim order dated 17th November, 2022, and for permission to apply for de-sealing of premises situated at **‘81/1 and 81/12 Block No. 2, WHS, Kirti Nagar, New Delhi — 110015’**.

4. Vide order dated 17th November, 2022, this Court directed status quo with regard to title and possession of the suit property.

5. The submission of Id. Counsel for the Defendant Nos. 5 to 7 is that the banquet hall was being run on the said suit property. The said banquet hall has been sealed by the MCD, in view of the *status quo* order passed on 17th November, 2022. Due to the said order, the Defendant Nos. 5 to 7 are unable to apply for de-sealing of the property sealed by the Municipal Corporation of Delhi (*hereinafter*, ‘MCD’) vide Sealing Order dated 24th March, 2023.

6. Heard. Although the suit properties are only two plots, from the averments in paragraph 3 of the plaint and paragraph 13 of the order dated 17th November, 2022, it is clear that four properties, namely, 81/1, 81/2 and 78 and 78/1, Block-2, WHS Kirti Nagar, New Delhi – 110015 were collectively being run as a banquet hall named ‘ROYAL MOMENTS BANQUET’. The said *status quo* order has been passed vide order dated 17th November, 2022, based on Plaintiff’s plea that she is the owner of suit property, which are in illegal possession and occupation of the Defendant Nos. 5 to 7. The fact that the suit property remains sealed till date is not disputed.

7. Since there is a dispute as to who owns which portion of these four plots and as to who is entitled for possession, the parties are jointly



permitted to apply to the MCD for de-sealing of the suit property. Upon the same being de-sealed, an application may be moved by either of the parties if they wish to seek any further reliefs in the matter. It is made clear, however, that no third-party interest shall be created and title and possession shall not be changed in any manner.

8. It is made clear that the above application for de-sealing is allowed without prejudice to the rights and contentions of both sides. It is also made clear that on the day when the MCD is likely to de-seal the premises, upon being intimated by the MCD, a Local Commissioner shall accompany the MCD team along with the parties only, so as to place a lock on the premises of the suit property. The keys of the same shall be deposited in the Court with the Registrar (Original Side), immediately upon the completion of the mandate of the Local Commission.

9. Accordingly, Mr. Bharadwaj S. Iyengar (**M: 9871900105**), Advocate is appointed as the Local Commissioner to accompany the MCD team on the day of de-sealing of the suit property. The mandate of the Local Commissioner is as follows:

- The Local Commissioner shall oversee access to the subject property during the de-sealing. He shall ensure that only the authorized parties are present and that the process is executed peacefully.
- The Local Commissioner shall file a report of the de-sealing process, including any observations on the events that occurred during the execution of the Commission. The report be filed within one week of the execution of the Commission.
- The Local Commissioner shall place on record photographs and videography of the de-sealing process.



- All the parties shall assist the Local Commissioner in carrying out the mandate of the Local Commission.
 - After execution of the Commission, the keys shall be deposited in the court in a sealed cover. The same shall be retained with the Registrar (Original) of this Court.
10. Once the keys are deposited in the Court, the Defendant Nos. 5 to 7 are free to move an application for demarcation of the two plots i.e. 78 and 78/1 from 80/1 and 80/2, Block-2, WHS Kirti Nagar, New Delhi – 110015.
11. The interim order dated 17th November, 2022 is modified to the above extent.
12. The fee of the Local Commissioner is fixed at Rs.1 lakh, excluding out-of-pocket expenses. The said fee of the Local Commissioner shall be borne equally i.e., Rs. 50,000/- by the Plaintiff and Rs. 50,000/- by Defendant Nos. 5 to 7.
13. Application is disposed of in these terms.
14. Let the present order be communicated to **Mr. Tushar Sannu, Standing Counsel [M:9911991166]** MCD by the Registry.
- CS(OS)-699/2022**
15. List on 15th May, 2024.

PRATHIBA M. SINGH, J.

JANURARY 09, 2024

Rahul/dn