



2025:DHC:9807

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

+ **CS(OS) 567/2024 & I.A. 42038/2024, 3938/2025**

MR VISHAL GUPTA

.....Plaintiff

Through: Mr. Abinash Kumar Mishra and
Gaurav Kumar Pandey, Advocates.

versus

SMT RADHA AGGARWAL & ORS.

.....Defendants

Through: Mr. Aditya Swarup and Ms. Kriti
Gupta, Advocates for D-1, D-2 and D-6.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH'

ORDER

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09.04.2025

I.A. 9378/2025

1. This is an application preferred on behalf of the Plaintiff under Order 39 Rule 2A read with Section 151 CPC for initiation of contempt proceedings against Defendants No. 1 and 2.
2. Issue notice.
3. Mr. Aditya Swarup, learned counsel accepts notice on behalf of Defendants No. 1, 2 and 6 and at the outset, on instructions, submits that answering Defendants will not file a reply to the application and will argue without the reply and accordingly, the application is taken up for hearing.
4. Mr. Mishra, learned counsel for the Plaintiff submits that present suit was filed *inter alia* for injunction, declaration, partition and rendition of accounts of the subject properties. With respect to the property situated on western side of area 1 Bigha 19 Biswa out of Khasra No. 19/22, in revenue



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estate of Village Kamruddin Nagar, Delhi, this Court had by order dated 23.07.2024 directed the parties to maintain *status quo* till further order. It is urged that prior to the order of this Court, learned Sub-Divisional Magistrate, Punjabi Bagh, had issued a restraint order against unauthorized construction on the subject property but despite the said order and order of this Court, Defendants No. 1 and 2 are continuously constructing not only on their side of the property but also on part of the property that belongs to the Plaintiff and this amounts to wilful disobedience and violation of the orders of this Court.

5. Learned counsel for Defendants No. 1, 2 and 6, *per contra*, submits that by Plaintiff's own showing in the documents filed with the plaint, his part of the property is shown in green colour and the answering Defendants have neither carried out nor are carrying out any construction on the green coloured part of the site plan and urges the Court to appoint a Local Commissioner to visit the site so that the actual truth is known. It is further submitted that Defendants No. 1, 2 and 6 have the highest regards for the orders of this Court and there is no violation least of all wilful disobedience or violation, as alleged by the Plaintiff.

6. In my view, learned counsel for Defendants No. 1, 2 and 6 is correct in his submission that a Local Commissioner's report may throw light on the actual facts on ground. Accordingly, Mr. Rakohit Pandey, Advocate (Mobile No. 9999914110) is appointed as a Local Commissioner to visit the aforementioned property and verify the status of construction. Local Commissioner will examine whether the alleged unauthorized construction is being carried out in the western part of the property shown in green colour of Document No. 4 filed with the plaint by the Plaintiff and if so, the extent



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thereof as also the approximate time when the construction started. Local Commissioner will take photographs and also record video of the construction and the same shall be filed along with the report.

7. Local Commissioner will visit the site at 11:00 AM on 10.04.2025. Authorized representative/counsel of the parties will be present during the execution of the commission and no party will obstruct the execution in any manner whatsoever. In case, any Police assistance is required by the Local Commissioner, he may contact the SHO of the concerned area and in case, any assistance is sought the SHO shall ensure that the assistance is given so that the commission is executed.

8. Report shall be filed by the Local Commissioner within two weeks from today. Fee of the Local Commissioner is fixed at Rs.1 lac to be shared equally by both the parties.

9. List on 28.04.2025.

JYOTI SINGH, J

APRIL 09, 2025/shivam