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

+ **CS(OS) 9/2024**

GURVIR AHLUWALIA AND ANOTHER Plaintiff

Through: Mr.Ashok Gurnani, Adv.

versus

JATINDER PAL SINGH SARNA AND OTHERS Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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08.01.2024

I.A. 266/2024 (delay)

Present application has been filed for condonation of delay of 175 days in re-filing the present suit.

Issue notice to the defendants/ non-applicants through all permissible modes, returnable for 16.02.2024 before the Court.

CS(OS) 9/2024

Present plaint has been filed for possession, damages/ mesne profits, future damages/mesne profits, recovery of rent and permanent injunction and in alternative for possession, damages/ mesne profits, future damages/mesne profits, recovery of rent, permanent injunction and for declaration with the following prayer:

a). decree of possession of the property in question i.e part of the



property MIG Flat bearing No. 51-A, Block Pocket KD, Phase-I, Ashok Vihar, New Delhi 110052. as shown in red colour in the site plan filed along with the present suit as forming part of the Rent Agreement Dt.12.04.2019 executed

among the Plaintiffs and Defendant No.1 ;

b. A Decree of recovery of Rs. 136,5000/- (Rupees Thirteen - Lacs Sixty Five thousand only)- on account of the arrears of rent w.e.f. 12.04.2019 upto 30.04.2023, for thirty nine months at the rate of Rs.35,000/- per month in total amounting to Rs.136,5000/- (Rupees Thirteen Lacs Sixty Five thousand only) and for future from 01.05.2023 till the passing of the decree of possession and recovery of the physical, vacant and peaceful possession of the suit property from the defendants i.e. part of the property MIG Flat bearing No. 51-A, Block Pocket KD, Phase-1, Ashok Vihar, New Delhi 110052.

ALTERNATIVES RELIEFS IN ADDITION TO THE ABOVE

RELIEFS.

C. in the alternative:

i. a Decree of Declaration that gift deed dt. 04.04.2013 executed by Late Sh. Tarlochan Singh Sarna in favour of the Defendant No. 1 herein is valid, binding on the Defendants including in their capacity as the legal representatives of late Sh. Tarlochan Singh Sarna and the following sale deeds are valid, binding and enforceable against on the Defendants including in their capacity as the legal representatives of late Sh. Tarlochan Singh Sarna and

i.Sale deed dated 16.09.2013 executed by Defendant No. 1 in favour of Ramta Arora relating to a part of the property measuring 13.38 sq.mtr.

ii.Sale deed executed by Defendant No. 1 herein in favour of Yashim Kadam son of Sh. Dharam Pal and Sh. Rohit Khari relating to part of the property measuring 9.28 sq.mtr.

iii.Sale deed dated 08.06.2018 executed by Defendant No. 1 in favour of Rita Khari (Plaintiff No. 2 herein) relating to part of the



property measuring 13 sq.mtr.

iv. Sale deed dated 12.04.2019 executed by Defendant No. 1 in favour of Rita Khari (Plaintiff No. 2 herein) relating to part of the property measuring 33.45 sq.mtr.

v. Sale deed dated 12.04.2019 executed by Defendant No. 1 in favour of Gurvir Ahluwalia (Plaintiff No. 1 herein) relating to part of the property measuring 33.45 sq are valid and binding on the Defendants.

d. Costs of the present Suit may be granted in favour of the Plaintiffs and against the Defendants ;

Let the plaint be registered as suit.

Summons be issued to the defendants by all permissible modes, which shall indicate that the written statements must be filed within thirty days from the date of receipt of the summons.

The defendants are directed to file affidavit of admission/denial against the documents filed by the plaintiff, failing which the written statement shall not be taken on record.

The plaintiff is at liberty to file replications thereto within fifteen days of filing of the written statements, which shall be accompanied by affidavits of admission/denial, in respect of the documents filed by the defendants, failing which the replications shall not be taken on record.

It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

List before the Joint Registrar (Judicial) on 12.03.2024 for completion



of service and pleadings.

I.A. 265/2024 (under Order XXXIX Rules 1 & 2)

By way of the present application filed under Order XXXIX Rules 1 and 2 read with Section 151 CPC the following prayer:

“It is therefore most respectfully prayed that the Hon'ble Court in the facts and circumstances of the present case may kindly be pleased to allow the present application and may by means of an ex parte order of injunction which may kindly be confirmed after notice to the Defendants restraining the Defendants more particularly the Defendants No. 1 and and the persons acting or purporting to act on their behalf including their agents and assignees from dealing, parting with possession, transferring, assigning the suit property bearing No. MIG Flat No. 51-A, Block Pocket KD, Phase -I, Ashok Vihar, New Delhi-110052 as shown in red colour in the site plan filed along with the present suit .”

Issue notice to the defendants/non-applicants through all permissible modes, returnable for 16.02.2024 before the Court.

Let reply be filed within four weeks with copy to the learned counsel for the plaintiff. Rejoinder thereto, if any, be filed within two weeks thereafter with copy to learned counsel for the defendants.

DINESH KUMAR SHARMA, J

JANUARY 8, 2024

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