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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 1120/2011, IA No.10059/2014 (u/O XXXIX R-2A CPC), IA
No.11252/2017 (u/O I R-10 CPC) & IA No.10898/2016 (u/S 151
CPC)
NASIRUDDIN Plaintiff

Through: Mr. Sitab Ali Chaudhary, Mr. Azhar
Chaudhary & Ms. Rubina, Adv.

Versus

NAZIMUDDIN & OTHERS Defendants

Through: Mr. Shahid Ali, Mr. Anwar Khalil &
Ms. Bushra Hasan, Adv. for D-2&3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.05.2018

1. Passover is sought on behalf of the counsel for the plaintiff.
2. On behalf of defendants, only the counsel for defendants no.2 and 3 appears and none appears for defendant no.1 or for defendants no.4 to 11.
3. The counsel for the defendants no.2 and 3 states that the other defendants are not appearing and not contesting the suit for partition.
4. Though issues were framed in this suit on 24th April, 2014 but recording of evidence has been stalled for the reason of pendency of three applications, of which two have been filed by the plaintiff and one by the defendant no.3.
5. The defendant no.3, in IA No.10898/2016, seeks permission to carry out the necessary repairs on the ground floor of property bearing House No.103, Gali No.6, Zaffarabad, Delhi-110053. It is argued that the plaintiff has filed this suit only with respect to second floor of the property but vide



order dated 17th August, 2011 *status quo* with regard to title and possession of the said property has been directed to be maintained. It is further contended that the ground floor is in a very bad state and the Municipal Corporation of Delhi (MCD) has also issued a challan on this ground.

6. Though in view of the interim order, it appears that there was no need for this application but the application is disposed of by clarifying that the defendant no.3 shall be entitled to carry out repairs / renovations on the ground floor of property bearing House No.103, Gali No.6, Zaffarabad, Delhi-110053 but without causing disturbance to any of the other occupants and / or portions of the property and without, in the garb of repairs / renovations, carrying out unauthorized construction.

7. If the defendant no.3 is found to be carrying out any works other than of repairs, the MCD shall be entitled to take appropriate action with respect to the property.

8. IA No.10898/2016 is disposed of.

9. The counsel for the defendants no.2 and 3, with respect to the other applications filed by the plaintiff, states that the same also pertain to the ground floor, though not subject matter of the present suit.

10. List for hearing on 26th September, 2018.

RAJIV SAHAI ENDLAW, J

MAY 08, 2018

‘gsr’..