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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1120/2011**
NASIRUDDIN Plaintiff

Through Mr. S. S. Rai, proxy cl. for Mr. Vikas Mahajan, Adv.

versus

NAZIMUDDIN & OTHERS Defendant

Through Mr. Shahid Ali & Mr. Umardraj,
Adv. for D-2&3
None for D-1, D-4 & D-8
D-5 to 7 & D-9 to 11 are ex-parte
vide order dated 24.04.2014

CORAM:

**ASHUTOSH KUMAR (DHJS), JOINT REGISTRAR
(JUDICIAL)**

ORDER

% **05.05.2017**

IA No.10898/2016 u/S 151 CPC moved by defendant no.3 for permission to carry out necessary renovation/repairs

Reply of plaintiff has come on record.

As per office note, defendant no.7 was served on 31.03.2017. In spite of that neither any reply has been filed nor anyone is present on her behalf to explain in this regard. Therefore her right to file reply is closed.

Right to file replies by defendant no.1,2,4,5,6,8 & 9 to 11 have already been closed.

IA No.10059/2014 u/O XXXIX R2A r/w Section 151 CPC moved by plaintiff for appropriate directions

Learned proxy counsel for plaintiff undertakes to deposit previous cost of Rs.5000/- in Delhi High Court Legal Services Committee within one week and to file receipt in this regard in the

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registry within two weeks.

No rejoinder to reply of defendant no.2 has been filed inspite of grant of last opportunity of two weeks vide order dated 03.03.2017. Accordingly right to file the same is closed.

Once again steps for service of contemnor no.1(defendant no.1) and contemnor nos.3&4 (not party to the main suit) have been taken by the plaintiff. Hence further cost of Rs.10,000/- is imposed upon the plaintiff to be deposited with Delhi High Court Legal Services Committee for causing delay. At request, issue fresh notice to them by all permissible modes.

Re-notify for completion of pleadings on this IA on next date of hearing.

CS (OS) 1120/2011

Learned proxy counsel for plaintiff has admitted that cheque given towards payment of previous total cost of Rs.20,000/- by defendant no.2&3 has been encashed. Thus said cost stands paid.

Learned proxy counsel for plaintiff has drawn my attention towards para no.13 of order dated 24.04.2014 of the Hon'ble Court, whereby the Hon'ble Court had directed that the witnesses of defendant no.1 to 3 be cross-examined first by the counsels of the other defendants and lastly by the counsel for the plaintiff and similarly, the other defendants to lead evidence first before the evidence of the plaintiff.

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Since none is present on behalf of defendant no.1, 4 & 8 on the second consecutive date today inspite of repeated calls, therefore said defendants are liable to be proceeded *ex-parte*.

As per office note, affidavits of DW1 Mohd. Yusuf, DW2 Mohd. Yunus & DW3 Rais Ahmed have been filed, out of which DW3 Rais Ahmed is absent.

Learned proxy counsel for plaintiff has sought adjournment on the ground that due to bereavement in the family of one his friends, main counsel is unable to appear today. Learned counsel for defendant no.2&3 has also sought adjournment on the ground that original documents filed by said defendants are not on record. He undertakes to check up with the registry and to do needful in this regard.

Re-notify the matter for evidence of DW1 to DW3 on 09.08.2017 at 12.00 noon.

ASHUTOSH KUMAR (DHJS)
JOINT REGISTRAR (JUDICIAL)

MAY 05, 2017/ab