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

+ **CS(OS) 1024/2024**

SHRI NARENDER CHARITABLE TRUSTPlaintiff

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva, Ms. Vaishali Shukla, Advocates

versus

ATUL JAIN & ORSDefendants

Through: (Appearance not given) for D-1.
Mr. Apoorav Kumar Sharma, Adv for D-2.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **20.12.2024**

I.A. 49238/2024 (Exemption)

Allowed, subject to all just exceptions.

CS(OS) 1024/2024 & I.A. 49237/2024, I.A. 49236/2024

1. The present suit under Section 6 of the Specific Relief Act, 1963 has been filed on behalf of the Plaintiff/Trust for putting the Plaintiff/Trust back into the possession of the property bearing G-10, Pushkar Enclave, Paschim Vihar, New Delhi – 110063 (*hereinafter referred to as "Suit Property"*) on the ground that the Plaintiff/Trust has been forcefully dispossessed from the suit property.

2. The chain of events as narrated in the plaint reveals that a Lease Deed was executed by the Government in favour of one Late Sh. Hari Kishore



Kunchal on 21.04.1977 in respect the suit property. The leasehold right of the suit property was converted into freehold rights by the said Late Sh. Hari Kishore Kunchal in the year 1993. The said Late Sh. Hari Kishore Kunchal transferred half of his undivided share in the suit property to his brother Sh. Sumer Chand Gupta. It is stated that vide a Gift Deed, Sh. Sumer Chand Gupta transferred his half share of the suit property in favour of the Plaintiff/Trust herein. It is stated that the Plaintiff/Trust was got incorporated vide a Trust Deed for the purpose of running schools and other institutions like orphanages, widow homes, lunatic asylums or other establishments for relief or to help the poor, old and infirm people or destitute etc. On 17.10.2002, Late Sh. Hari Kishore Kunchal transferred the other half of the suit property in favour of one Smt. Sudha Gupta. Material on record indicates that both Smt. Sudha Gupta and the Plaintiff/Trust transferred their interest in the suit property by virtue of a Sale Deed in favour of M/s Modern Institute of Education Pvt. Ltd. in the year 2010. On 13.07.2019, M/s Modern Institute of Education Pvt. Ltd. sold the suit property to one Mr. Atul Jain. It is stated that now the said Mr. Atul Jain has sold the third floor of the suit property to Defendant No.2.

3. It is the case of the Plaintiff/Trust that they continued to remain in possession of the property despite executing the Sale Deed. It is stated that now the Plaintiff/Trust has been forcefully dispossessed from the property in December, 2024, and therefore, the present suit has been filed for restoration of possession.

4. At this juncture, this Court is not inclined to pass any Interim Order because the Plaintiff/Trust has not been able to show any interest in the suit property for the reason that after having sold the suit property to M/s



Modern Institute of Education Pvt. Ltd., the Plaintiff/Trust does not have any interest in the suit property. This Court is *prima facie* of the opinion that there is no subsisting right in favour of the Plaintiff/Trust.

5. Be that as it may, this Court is inclined to issue summons.
6. Let the plaint be registered as a suit.
7. Issue summons.
8. Learned Counsel for Defendant No.1 accepts summons. Learned Counsel for Defendant No.2 also accepts summons.
9. Issue summons to the Defendant Nos.3 and 4, to be served through all permissible modes, including through electronic mode and *Dasti* as well, returnable on 03.03.2025 before the learned Joint Registrar (Judicial) for further proceedings.
10. Let the Written Statement(s) to the plaint be positively filed within the time prescribed under the Delhi High Court (Original Side) Rules, 2018 along with the affidavit(s) of admission/denial of the documents of the Plaintiff, without which the Written Statement(s) shall not be taken on record.
11. Liberty is given to the Plaintiff to file the Replication within the time prescribed under the Delhi High Court (Original Side) Rules, 2018 along with the affidavit(s) of admission/denial of documents of the Defendants, without which the Replication(s) shall not be taken on record.

SUBRAMONIUM PRASAD, J

DECEMBER 20, 2024

S. Zakir