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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 1456/2013, I.A. 11638/2013**

RAJ PURI & ANR

..... Plaintiffs

Through: Mr. Rajesh Rawal, Advocate.

versus

VINOD PURI & ANR

..... Defendants

Through: Counsel for defendants.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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04.01.2024

I.A. 8157/2014 (under Order 7 Rule 11 read with Order 1 Rule 10 read with Section 151 CPC for reject the suit plaint) and I.A. 8666/2023 (under Order XXIII Rule 3 CPC for disposal of the suit)

1. The present applications have been filed on behalf of the defendants for disposal of the suit in terms of the Settlement Agreement dated 23.11.2018.

I.A.18918/2023 (for modification)

2. The present application under Section 151 of the Code of Civil Procedure, 1908, has been filed on behalf of the defendant Nos. 1 and 2 seeking modification of order dated 15.07.2022 directing the parties to proceed with the evidence of the parties.

3. **Some Submissions heard.**

4. It has been submitted that for the last more than 10 years, the plaintiff No. 1 is residing in Portugal.

5. During the course of arguments, a specific query was put to the



learned counsel for the plaintiff, if the plaintiff would be able to appear in the Court, to which he has submitted that she is not permanently residing in Portugal along with her son since 2013. But because of her age and there being none to take care of her, she has been taken by her son Mr. Chetan Puri to Portugal in the year 2019 and since then she is residing in Portugal. Thereafter, Covid happened and now her age is more than 90 years and she is not in a condition to reside independently alone in India since there is none to take care of her.

6. On specific query being put to learned counsel for the plaintiff, if the plaintiff would be able to appear in person in the Court to explain her intention, learned counsel for the plaintiff submitted that she is not in a position to travel and can only join through video- conferencing.

7. **Submissions heard.**

8. Learned counsel for the plaintiff submits that while the application is pending adjudication, he shall file his affidavits of all the witnesses within four weeks with a copy to the opposite counsel, who shall cross-examine all the witnesses within one month thereafter. The defendants shall then file their affidavits of evidence within one month and the evidence/cross-examination of the defendants shall be concluded within one month thereafter.

9. It is submitted that after the issues were framed, the Local Commissioner was appointed for recording of the evidence. However, Local Commissioner has not been approached by either party for recording of the evidence. However, the parties agreed that the evidence as directed today, may be recorded by the Local Commissioner.

10. In view of the submissions made, Mr. P.K. Saxena, Mobile No.



9910384668, is hereby appointed as the Local Commissioner, for recording the evidence of the parties.

- (i) The fees of the learned Local Commissioner is initially fixed at Rs.20,000/- for recording of evidence for per day at least for two hours approximately.
- (ii) The entire expenditure to be shared equally by both the parties.
- (iii) In case, any adjournment is taken by one of the parties, the said party shall bear the costs of the said sitting. The Local Commissioner shall decide whether the adjournment is on account of the party/parties.
- (iv) The evidence will be recorded by the Local Commissioner within the High Court precinct.
- (v) In case of requirement of Court file, the Registry shall make the arrangements to send the Court file to the Local Commissioner and Rs. 2,000/- is fixed towards the fees to be paid to the Court staff to carry the Court file and the same will be borne by the plaintiffs.
- (vi) The parties shall provide full assistance to the Local Commissioner for recording of evidence.

11. Both the parties are directed to appear before the Local Commissioner on 12.02.2024, for fixing the schedule of dates for recording of evidence.

12. The matter be listed before the Court for arguments on the pending applications on 27.03.2024.

NEENA BANSAL KRISHNA, J

JANUARY 4, 2024/RS