



\$~41

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

+ **CS(OS) 34/2025**

SHAMSUL BASHAR SIDDIQUE

.....Plaintiff

Through: Ms. Arundhati Katju Senior
Advocate with Mr. Mohd. Ali
Chaudhary. Mr. Abu Zar Ali,
Ms. Swati Kwatra Advocates

versus

MOHAMMAD TABREZ & ORS.

.....Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **20.01.2025**

I.A.1326/2025 (for exemption)

1. Exemption is granted, subject to all just exceptions.
2. Applicant shall file legible, clear, and original copies of the documents on which the applicant may seek to place reliance before the next date of hearing, whichever is earlier.
3. Accordingly, the present application is disposed of.

CS(OS) 34/2025

1. The plaint be registered as a suit.
2. Summons be issued to the defendants through all permissible modes on filing of process fee. Affidavit of service be filed within two weeks.
2. The summons shall indicate that the written statements must be filed within thirty days from the date of receipt of the summons. The defendants shall also file affidavits of admission/denial of the documents filed by the



plaintiff, failing which the written statements shall not be taken on record.

3. The plaintiff is at liberty to file replications thereto within thirty days after filing of the written statements. The replications 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.

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

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

6. List before the learned Joint Registrar for marking of exhibits on 5th March 2025.

7. List before the Court on 20th May 2025.

I.A. 1325/2025 (under Order XXXIX Rules 1 & 2)

1. This application under Order XXXIX Rules 1 and 2 read with Section 151 CPC has been filed by the plaintiff as part of the accompanying suit seeking a decree of specific performance and of prohibitory injunction in favour of plaintiff and against the defendants and all those acting on their behalf to.

2. The plaintiff claims that an Agreement to Sell and Purchase dated 02nd March 2023 was executed between the plaintiff and defendants for a total consideration amount of Rs.1,14,75,000/- (*Rupees One Crore Fourteen Lakhs Seventy-Five Thousand Only*) qua land admeasuring 111 sq. yards, situated in *Khasra* No.827, Madanpur Khadar, Sarita Vihar, New Delhi-110076 and the second Agreement to Sell and Purchase dated 02nd March 2023 was executed for a total consideration amount of Rs.42,18,000/- (*Rupees Forty-Two Lakhs Eighteen Thousand Only*) qua



land admeasuring 270 sq. yards forming part of *Khasra* No.827, Madanpur Khadar, Sarita Vihar, New Delhi-110076 (the suit properties).

3. The total consideration amount was accordingly, Rs. 1,56,93,000/- (*Rupees One Crore Fifty-Six Lakhs Ninety-Three Thousand Only*), out of which, plaintiff initially paid Rs.80,00,000/- (*Rupees Eighty Lakhs Only*) as advance payment and an instalment of Rs.35,00,000/- (*Rupees Thirty-Five Lakh Rupees Only*) was given to the defendants on 05th August 2023. The balance amount was, therefore, Rs. 41,93,000/- (*Rupees Forty-One Lakhs Ninety-Three Thousand Only*).

4. Despite pursuing the defendants to execute the ownership documents in favour of the plaintiff, the defendants refused to execute the same, pursuant to which, the plaintiff lodged a written complaint with the Deputy Commissioner, South-East District, Delhi, which was received on 14th November 2023.

5. Since the plaintiff frequently travels abroad, on 7th November 2023, plaintiff executed a Special Power of Attorney ('SPA') in favour of one *Mohammad Ashfak*, thereby putting him in possession of the suit properties, in order to take care of the same.

6. On 19th September 2024, defendant No. 3 tried to trespass on the aforesaid suit properties and cause hindrance in peaceful enjoyment of the same.

7. It is claimed that post the attempts to trespass by the defendant No. 3 and a complaint to the police, a *kalandra* was registered on 19th September 2024, stating that the parties were in dispute with respect to possession of the suit properties.

8. At that stage certain documents *inter alia* GPA, agreement to sell, Will and receipt were produced by defendant No. 3, *vide* which defendant



No. 1 & 2 had purportedly transferred the said property in the favour of the wife of defendant No. 3. The said documents were received by the plaintiff, after submission of *kalandra* by the police officials.

9. Senior counsel for the plaintiff submits that they are seeking a restraint on the defendants from disturbing their peaceful possession of the property which was handed over to them as part of the agreement and have never stated that they are not ready and willing to perform their part of the agreement. Attempt to create third party rights by the defendants will counter their committed obligations under the agreement to sell.

10. In view of the above, the parties are directed to maintain *status quo* with respect to title and possession of the aforesaid suit properties namely, land admeasuring 111 sq. yards, situated in *Khasra* No.827, Madanpur Khadar, Sarita Vihar, New Delhi-110076 and land admeasuring 270 sq. yards forming part of *Khasra* No.827, Madanpur Khadar, Sarita Vihar, New Delhi-110076, till the next date of hearing.

11. On steps being taken by the petitioner, notice be issued to defendants through all permissible modes, for the next date of hearing.

12. Reply to the application be filed within four weeks. Rejoinder thereto, if any, be filed within three weeks thereafter.

13. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be complied with, within one week from today.

14. On instructions, Senior Counsel for the plaintiff states that they are willing to deposit the balance sale consideration amount with this Court.

15. It is accordingly directed that the balance amount be deposited with Registry of this Court, within a period of 2 weeks, which shall be kept in the form of an interest-bearing FDR.

16. List before this Court on 20th March 2025.



17. Order be uploaded on the official website of this Court.

ANISH DAYAL, J

JANUARY 20, 2025/sm/kp