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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 224/2016

SMT ANITA ROY

..... Plaintiff

Through : None.

versus

SH SAMIR MAJUMDAR & ORS

..... Defendants

Through : Mr.S.K.Bhaduri, Advocate for
defendant No.1/applicant.
Ms.Mrinauni Sen and Mr.Tanmay
Yadav, Advocates for defendants
No.2 and 4.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **08.10.2018**

IA No.13875-13876/2018

Defendant No.1/applicant moved IA No.13875/2018 under order XXXIX Rule 1 & 2 CPC and IA No.13876/2018 under Order X CPC.

Issue notice.

The learned counsel above named appearing on behalf of defendants No.2 & 4 accepts notice and says copy of IAs have not been supplied to him. Be supplied during the course of day. On receipt of copies, reply be filed within four weeks from today with an advance copy thereof to learned counsel for applicant. Rejoinder thereto, if any, be also filed within two weeks thereafter.

Notice of IAs be issued to the remaining parties through all



modes returnable for next date of hearing. Additionally, *dasti* notice through counsel for said date.

By way of IA No.13875/2018 the applicant/defendant No.1 seeks restraining orders against the plaintiff and defendants No.2 to 4 from taking forcible possession of the ground floor of the premises bearing No.G-1425, Chittranjan Park, New Delhi-110019. It is argued the aforesaid property was bequeathed to the applicant/son/defendant No.1 and that defendant No.5/mother of defendant No.1 was left with a life interest, per Will dated 31.08.1998 by the father/owner. As per said Will, certain sums were to be paid to the daughters which have already been paid; the plaintiff herein having received an amount of Rs.1.00 lac.

There were certain issues between the mother and son and both went to the mediation centre and finally settled their disputes vide settlement agreement dated 16.05.2014 whereby the mother / defendant No.5 agreed she shall use the suit property for her residence only and shall not encumber, create any lien, or any third party interest or part with the possession of any part of ground floor to anyone else.

The learned counsel for plaintiff alleged presently the sisters of defendant No.1, including the plaintiff herein, are trying to forcible occupy the ground floor of the said property which they have no right to do per Will dated 31.08.1998 and the settlement agreement dated 16.05.2014, hence, it is directed the status quo qua *possession* and *title* of the ground floor of aforesaid property be maintained till next date of hearing, though this order shall not be read as an embargo



upon the visits of daughters to their mother/plaintiff no.5 to take care and look after her. Compliance of Order XXXIX Rule 3 of the CPC be made within ten days from today.

List on 13.12.2018 before the learned Joint Registrar for completion of pleadings.

Copy of order be given *dasti* to the learned counsel for applicant under signatures of the Court Master.

YOGESH KHANNA, J

OCTOBER 08, 2018

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