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

+ RFA 550/2018, CM APPLs. 28081/2018, 28082/2018, 2066/2019
& 31135/2024

JIA LAL BAJAJ

.....Appellant

Through: Mr. Nalin Kohli, Adv. with
Mr. Mohit Chaudhary, Mr. Kunal
Sachdeva and Ms. Vaishali Shukla,
Advs

versus

KEWAL KRISHAN MANCHANDA & ORSRespondents

Through: Mr. Rajnish Kumar Jha and
Mr.Md.Faiyazul Haque, Advs for R-1
& 2
Mrs. Priya Hingorani, Sr.Adv with
Mr. Himanshu Yadav and Mr.Naseem
Ahmed, Advs for R-3.
Mr. Virender Goswami, Ms. Soni
Singh, Ms. Swati Goswami, Ms.
Parkhi Singh and Mr. Priyanshu
Yadav, Advs for R-4.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **14.08.2024**

CM APPL.11579/2024 (Directions)

1. Heard learned counsel appearing for the parties.
2. Learned senior counsel appearing on behalf of the applicant/respondent no.3 submits that, *vide* impugned judgment and decree dated 12.01.2018, respondent no.3 has been held to be entitled for 4/15th share in the property situated at 22-A, Ring Road, Lajpat Nagar- IV, New



Delhi. She has made various averments in the application to indicate that the property has been let out. According to her, the lease deed appears to have been executed in favour of an automobile company, namely Volkswagen under the banner “City Store Delhi South”. She, therefore, submits that keeping in view the age of respondent no.3 who is around 70 years old, during the pendency of the instant appeal, this Court may direct the appellant to place on record the rent agreement executed with different tenants over the property in question. Furthermore, she prays that the appellant be required to disclose the total amount of rent received over the years from renting the said property.

3. Respondent no.3 also prays for transfer of the applicant's share i.e. 4/15th of the rental income received by the appellant over the years from the subject property.

4. The submission made by learned senior counsel appearing for the applicant is strongly opposed by learned counsel for the appellant.

5. While drawing the attention of the Court to the reply filed by the appellant, learned counsel submits that respondent no.3 does not have any case on merit. Besides the submissions on merit, he denies that the property in question has been let out. He further submits that, at present, the property is not in the possession of the appellant and in absence of there being any evidence on record to conclusively prove that the property in question is let out on rent and the appellant is fetching any rental income, there is no necessity of passing any directions. He also submits that, on prior occasions, through various interlocutory orders, the appellant sought permission to lease the property in question. Notably, Respondent No. 3 did not raise any objection at that time. However, the property could not be let out due to the



absence of a no-objection certificate from the other respondent. Therefore, he submits that the directions now being sought are unwarranted and unnecessary at this stage.

6. I have considered the submissions made by learned counsel for the parties.

7. Undisputedly, the preliminary decree lies in favour of respondent no.3 which entitled her to a 4/15th share in the subject property.

8. It is also noteworthy that the property in question appears to be situated in a commercial area. Before passing any directions on the instant application, the Court needs to be apprised of whether the property in question has actually been let out to any private individual or company. Depending on the inquiry regarding this aspect, the next question that would arise for consideration is whether the property in question can be in the possession of any person other than the appellant, who is contesting the instant appeal. This question will also bear upon the merits of the instant case. For this reason, before passing any further directions, the Court deems it appropriate to appoint a Court Commissioner, who shall extend an opportunity of hearing to all appearing parties and submit a report before this Court on the factual aspects.

9. The expenses of the Court Commissioner shall be equally borne by the appellant and respondent no.3. The remuneration of the Court Commissioner is fixed at Rs.1 lakh.

10. The Court, therefore, requests *Mr. Ashok Kumar Sharma, Advocate (Mob No. 9811774901)*, who is present in Court, to accept the aforesaid assignment of acting as the Court Commissioner.

11. *Mr. Ashok Kumar Sharma* graciously accepts the Court's request. The



Court appreciates his gesture.

12. Let the entire digital record of the instant case be handed over to *Mr. Ashok Kmar Sharma*. He is requested to submit a report within 20 days from today.

13. List on 17.09.2024.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 14, 2024/MJ