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

+ **CS(OS) 301/2018**

MS. KARISHMA VIRDI

..... Plaintiff

Through: Mr. Rohit Gandhi and Mr. Hargun
Singh Katra, Adv.

versus

EAST DELHI MUNICIPAL CORPORATION Defendant

Through: Ms. Beenashaw N. Soni, SC along
with Mr. Bhupesh Pandotra and Mr.
Pratyush Bhardwaj, Advs. for D-1.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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02.12.2022

IA No.11570/2020

A rejoinder is stated to have filed on behalf of the plaintiff/applicant. However, the same is not on record. Let the same be placed on record before the next date of hearing.

CS(OS) 301/2018

1. After perusal of the record and with the consent of learned counsel for the parties, the following issues are settled:

a) Whether the plaintiff has the *locus standi* to file the present suit?

(OPD)

b) Whether the Defendant is in occupation of land measuring 17 Bighas 9 biswas in Khasra No.3529/1070/1000/480 in Bhola Nath Nagar, Chadrawali, Shahdra, Delhi and shown in colour Red, Yellow, Blue and Green and marked as A, B, C and D in the site plan and if so, whether the plaintiff is entitled to a decree of possession in respect



thereof? (OPP)

c) Whether the suit land belongs to the Defendant? (OPD)

d) Whether the Plaintiff is entitled to decree of mandatory injunction directing the Defendant to demolish all the construction carried out by the defendant on the land measuring 17 Bighas 9 biswas in Khasra No. 3529/1070/1000/480 in Bhola Nath Nagar, Chadrawali, Shahdra, Delhi and level the land to ground level in portions shown in colour Red, Yellow, Blue and Green and marked as A, B, C and D in the site plan and decree of permanent injunction restraining the Defendant to carry out any construction therein? (OPP)

e) Whether the Plaintiff is entitled to decree of recovery of mesne profits and damages to the extent of Rs.20,00,000/- per month or any other amount commencing from 01.10.2017 till the date of handing over of the vacant peaceful possession? (OPP)

2. Learned counsel for the parties pray that a Local Commissioner be appointed for recording of evidence at the cost of the plaintiff.

3. With the consent of the parties, the Dr. T.R. Naval, District and Sessions Judge (Retired), (Mobile No.9910384662) is appointed as a Local Commissioner for recording of evidence. The following directions are being passed:-

(i) The fees of the Local Commissioner is initially fixed at Rs.1,25,000/-, on the basis that the recording of evidence shall be concluded in 10 sittings. If recording of evidence is not completed in 10 sittings, an additional fee of Rs.10,000/- shall be paid to the Local Commissioner for each additional sitting.

(ii) Costs of recording of evidence including out of pocket



expenses shall be borne by the plaintiff, subject to the final outcome in the suit.

(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 parties/party.

(iv) The evidence will be recorded by the Local Commissioner within the High Court precincts.

(v) In case of requirement of Court file, the Registry shall make the arrangements to sent the Court file for the sitting before the Local Commissioner and Rs.1,500/- 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 plaintiff.

(vi) The Local Commissioner is requested to complete the recording of evidence of the parties within six months from today.

(vii) The parties shall provide full assistance to the Local Commissioner for recording of evidence.

4. Both the parties are directed to appear before the Local Commissioner on 20.01.2023, for fixing of future dates and for recording of evidence.

5. The parties are directed to file a list of witnesses within a period of six weeks from today along with evidence by way of affidavit of the concerned witnesses.

6. List in Court on 17.03.2023 for monitoring the recording of evidence.

7. A copy of this order be sent to the learned Local Commissioner.

DECEMBER 2, 2022/cl

SACHIN DATTA, J