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

+ CS(OS) 2126/2013, IA No.17643/2013(u/O.XXXIX R.1&2 CPC),
IA No.17644/2013 (u/S.151 CPC), IA No.15413/2015 (u/O.XXXIX
R.1&2 CPC), IA No.25231/2015(u/O.VII R.11 CPC),
IA No.2164/2019 (u/O.XI R.12&14 CPC),
IA No.2486/2019(u/S.151 CPC), IA No.4329/2019 (u/O.XXXIX R-
2A CPC), IA No.4330/2019(u/S.151 CPC) & IA No.11797/2019(for
condonation of 29 days' delay in filing reply to IA No.4329/2019)

CHARANJEET KAUR KHURANA Plaintiff

Through: Mr. Rajat Aneja with
Ms. Chandrika Gupta, Advs.

versus

S MANMOHAN SINGH OBEROI AND OTHERS Defendants

Through: Mr. Anirban Bhattacharya, Adv.
for D-1.
Mr. Mansimran Singh, Adv. for D-4.
Mr. Sunil Dalal with
Mr. Jaskaran Singh, Advs.
for Indiabulls Housing Finance Ltd.
Mr. Harshad V. Hameed, Adv.
for Federal Bank.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **29.08.2019**

1. Mr. Anirban Bhattacharya, Advocate appearing on behalf of defendant no.1 states that he has been engaged two days back and seeks an adjournment.
2. The counsel for the plaintiff states that the defendant no.1, in violation of the interim injunction, has mortgaged two out of the four properties for

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partition of which this suit has been filed, first with Indiabulls Housing Finance Ltd. and now with Federal Bank.

3. On enquiry, it is stated that the plaintiff is not aware whether the mortgage with both continues.

4. The counsel for Indiabulls Housing Finance Ltd. states that the account of the defendant no.1 with Indiabulls Housing Finance Ltd. stands closed and Indiabulls Housing Finance Ltd. now does not claim lien over any of the four properties. It is also clarified that only one of the properties was mortgaged by deposit of title deed with Indiabulls Housing Finance Ltd., and which title deed has since been released.

5. The counsel for the plaintiff contends that several opportunities for filing replies to IA No.4329/2019 and to IA No.4330/2019 under Order XXXIX Rule 2A CPC and for direction to Federal Bank to deposit the title deeds in the Court, have been granted to the defendant no.1 but no reply has been filed.

6. On enquiry, it is further disclosed that only defendant no.1 is contesting the suit and none of the other defendants are contesting the suit; though, the defendants no. 3 and 6 are supporting the defendant no.1.

7. On enquiry, the counsel for the defendant no.1 states that defendant no.1 is not present in the Court.

8. Now, it is stated that defendant no.1 is present in the Court.

9. The counsel for the Federal Bank states that replies to both the applications have been filed.



10. The counsel for the Federal Bank, on enquiry, also states that the total loan amount is Rs.830 lacs and the title deed only of property no. C-46, Okhla Industrial Area, New Delhi has been deposited and negative lien has been created with respect to C-45, Okhla Industrial Area, New Delhi.

11. Subject to the defendant no.1 (i) paying costs of Rs.50,000/- to the counsel for the plaintiff; (ii) filing replies to IAs No.4239/2019 and 4330/2019 on or before 6th September, 2019; and, (iii) remaining present in the Court on the next date of hearing, list on 6th February, 2020.

12. If the replies are not filed by 6th September, 2019, the right of defendant no.1 to file replies to IA No.4329/2019 and IA No.4330/2019 shall stand closed.

13. IA No.11797/2019 of Federal Bank, for condonation of delay of 29 days in filing reply to IA No.4329/2019 is allowed and disposed of.

14. IA No.17643/2013 and IA No.15413/2015 of the plaintiff under Order XXXIX R.1&2 CPC are disposed of making absolute the orders dated 1st November, 2013 and 12th October, 2017, till the disposal of suit.

15. The counsel for the plaintiff states that IA No.2164/2019 under Order XI Rules 12 and 14 CPC is infructuous. The same is disposed of

16. IA No.2486/2019 of the defendant no.1 is also now infructuous and is disposed of.

17. The counsel for the plaintiff states that the suit is ripe for framing of issues; however IA No.25231/2015 of the defendant no.1 under Order VII Rule 11 CPC is pending consideration.



18. Needless to state that the counsel for the defendant no.1 is not prepared to argue the same also. List the same also on the next date of hearing.
19. The counsels to also come prepared with the proposed issues on the next date of hearing.
20. List on 6th February, 2020.

RAJIV SAHAI ENDLAW, J

AUGUST 29, 2019
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