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

+ **CS(COMM) 806/2016**

M/S ARRENA OVERSEAS PRIVATE LIMITED Plaintiff

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

versus

M/S BATRA ART PRESS Defendant

Through: Mr. S. K. Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **03.09.2019**

I.A. 12105/2019 (Application Under Order XXXIX Rules 1 and 2)

1. Issue notice. Learned counsel accepts notice on behalf of defendant.
2. The allegation in this application is that, during the pendency of the suit, the defendant has commenced construction on the open space in the suit property and has also installed a door with a biometric device which causes an impediment to the plaintiff's access to the suit property.
3. Learned counsel for the defendant upon instructions, with reference to the site plan at page 26 of the application, states that the only activities being carried on as far as construction is concerned are as follows:
 - a. It is stated that covering on the tin shed, shown on the right side of the site plan, was damaged and is being replaced with new fibre glass sheets.
 - b. The side walls of the suit property were damaged and are being repaired with a fresh coat of plaster.

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c. Learned counsel for the defendant states that a staff toilet, which had been constructed more than 20 years ago, at the end of the open space shown on the left side of the site plan, has been repaired and no further work is going on with regard thereto.

4. Recording the undertaking given on behalf of defendant that no activity of construction is being carried out other than the aforesaid, or will be carried out without permission of the Court, no relief is called for in this application. It is made clear that these activities shall not lead to any equities being created in favour of the defendant, and are without prejudice to the rights and contentions of the parties.

5. As far as access of the plaintiff to the suit property is concerned, learned counsel for the defendant undertakes that the guard employed by the defendant will be instructed to provide access to the plaintiff's representatives and staff, as and when required by them, and the plaintiff's access will not be obstructed in any manner whatsoever.

6. Learned counsel for the defendant further submits that within one week, he will provide to the plaintiff means of electronic access so that its representatives and employees are not dependent on the guard. In the event electronic access cannot be provided, the biometric device will be removed within 10 days.

7. Learned counsel for the plaintiff does not press for any other orders, in the light of the statements recorded above.

8. Recording these statements, the application stands disposed of.

PRATEEK JALAN, J

SEPTEMBER 03, 2019/ 'j'/s

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