



\$~27

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

+ **CS(OS) 150/2010**

KAMAL KUMAR NEWAR

..... Plaintiff

Through None.

versus

NAND KUMAR NEWAR & ORS

..... Defendant

Through Mr.Avneesh Garg, Adv for Defendant
No.3 & 4.

CORAM:

HON'BLE MR. JUSTICE REKHA PALLI

ORDER

%

25.06.2018

I.A. 8231/2018

This is an application filed by the defendant nos. 3 and 4, under Order 26 Rule 9 CPC for the appointment of a Local Commissioner to inspect the suit property being at plot no. 175 sector 24, Faridabad, Haryana.

Learned counsel for the applicants/defendant nos.3 and 4 submits that even though this Court had vide its order dated 15.04.2014 directed the parties to maintain the status quo qua the aforesaid property, the defendant no.1 had, in blatant violation of the said order granted a long term lease of the said property for 15 years along with the option of renewal for the choice of lessee for another term of the same period to a third party namely M/s Tower Vision India Private Limited by way of lease deed dated 11.04.2017. He further submits that even though in respect of the said lease deed an application under Order 39 Rule 2A CPC being I.A.No.275/2018 is already pending for consideration before this Court, the defendant no.1 taking benefit of the vacations is clandestinely carrying out further massive



constructions on the said property from the first week of June itself, so as to cause grave prejudice to the plaintiff and the applicants/defendants nos. 3 & 4. He further submits that the aforesaid fact has come to the applicant's knowledge only very recently.

In these circumstances, learned counsel for the applicants prays that an ex-parte order be passed appointing a Local Commissioner to visit the aforesaid property to report about the fresh construction carried out at the said property in question.

Having heard learned counsel for the applicants/defendant nos.3 & 4, I am of the view that the applicants/defendant nos.3 & 4 have made out a prima facie case for appointment of a Local Commissioner and, in case, notice of the present application is issued to the other parties at this stage, the very purpose of appointment of Local Commissioner would be frustrated, it may cause prejudice to the applicants/defendant nos.3 & 4. Even otherwise, in my opinion, the appointment of a Local Commissioner to only inspect the said property would not cause any prejudice to any of the parties.

Accordingly, Ms.Sanya Talwar, Advocate (9643467571) is appointed as a Local Commissioner to visit the said property within two days. The Local Commissioner will visit the property and have the property photographed by the photographer to be provided by the applicants to the Local Commissioner. The Local Commissioner will also verify as to whether any construction is being carried out or has been recently carried at the site.

The Local Commissioner would be paid a sum of Rs.55,000/- by the applicants and will file her report within a period of one week thereafter



from the date of her visit to the site.

The concerned SHO is directed to give all necessary assistance to the Local Commissioner appointed by this Court.

In the above terms, the application stands disposed of.

Dasti under the signature of Court Master.

CS(OS) 150/2010

List on 23.07.2018, the date already fixed.

JUNE 25, 2018/sr

**REKHA PALLI , J
(VACATION JUDGE)**