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

+ CS(OS) 1239/2015 & I.A. 9275/2015, I.A. 13179/2016, I.A. 15101/2018, I.A. 8861-62/2019, I.A. 10234/2019, I.A. 1703/2020, I.A. 6787/2020, I.A. 7800/2020

DINESH MADAN Plaintiff

Through: Mr. Shailendra Paul, Adv. for
D-1

versus

ANIL MADAN & ANR Defendants

Through: Mr. Jai Sahai Endlaw and Ms.
Sonia Madan, Advs. for D-1
Mr. Abhay Pratap Singh, Adv.
for Bimla Madan

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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10.09.2020

(Video-Conferencing)

I.A. 7800/2020 (Exemption) in CS(OS) 1239/2015

1. Subject to duly attested affidavit being filed by Defendant No.1, within 72 hours of resumption of normal court work, exemption, as sought, is granted for the present.

2. The application is disposed of.

I.A. 6787/2020 in CS(OS) 1239/2015

1. The prayer in this application is for placing of the valuation report, prepared by M/s Dream Land Designers Pvt. Ltd., who was

appointed as a Valuer by this Court *vide* order dated 12th December, 2019, on record.

2. Mr. Jai Sahai Endlaw, learned counsel appearing for Defendant No. 1, strongly opposes this application, and has also filed a reply thereto.

3. To a query from the court, as to the possible opposition, that could be laid to the placing of a valuation report, prepared in accordance with the directions of this Court, on record, Mr. Endlaw's submissions is that as, to his knowledge, the Valuer has not fulfilled his mandate, as he has not valued all the properties which he was required to value.

4. Besides, Mr. Endlaw submits that that placing of the valuation report on record may prejudice his client, as there is a dispute regarding the properties which would fall to the shares of the various parties to these proceedings, and, by having the valuation report placed on record, the defendant is trying to proceed further with obtaining a final decree of partition, to the prejudice of the petitioner, even before the proper adjudication of the properties which would fall to the shares of various parties in these proceedings is undertaken.

5. Mr. Endlaw also submits that various contentions have been advanced in the application, seeking placement of the valuation report on record, which would indicate that the intention of the plaintiff, in seeking that the valuation report be placed on record, is not bonafide.

6. In my view, these submissions may deserve serious consideration, when the rights of the parties are adjudicated and before CS(OS) 1239/2015 is finally decided.

7. They cannot, however, constitute a legitimate opposition to placing the valuation report, prepared in accordance with the orders of this Court, on record. It is not the case of Mr. Endlaw that the report is otherwise confidential or subject to any privilege which would militate thereagainst.

8. Besides, this Court has *vide* orders dated 12th December, 2019 and 13th February, 2020 already directed that the report should be brought on record. Significantly, there is no direction in either of the said orders that the report should remain in a sealed cover.

9. In view thereof, I am of the opinion that there is no substantial ground on the basis of which the prayer in this application, to place the valuation report on record, can be rejected.

10. Accordingly, the prayer in the application is allowed and the valuation report prepared by M/s Dream Land Designers Pvt. Ltd. is directed to be brought on record in these proceedings.

11. It is made absolutely clear that this order shall not amount to an expression of any opinion, even tentative, regarding the controversy between the parties, or even to an acknowledgement, by this Court, of

the legitimacy or correctness of the submissions contained in this application, the merits of which have not been examined by this Court while passing the present order.

12. This Court has directed the valuation report to be brought on record only because

- (i) the report has been prepared by a Valuer appointed by this Court, in accordance with the directives of this Court, and
- (ii) it is nobody's case that the report is confidential or privileged.

13. As such, without expressing any opinion on the merits of the other submissions contained in this application, the prayer in this application is allowed to the limited extent that the valuation report, dated 25th August, 2020, prepared by M/s Dream Land Designers Pvt. Ltd., is permitted to be brought on record.

14. It is also made clear that, apropos the submissions of Mr. Endlaw that the Valuer has not discharged his mandate as he has not valued all the properties, *qua* which he was appointed as the Valuer, it would be permissible for Mr. Endlaw's client to seek completion of the mandate of the Valuer, if required to be completed, by way of a separate application. The right to do so shall remain reserved.

I.A. 1703/2020 in CS(OS) 1239/2015

1. Mr. Jai Sahai Endlaw, learned counsel appearing for Defendant No.1, applicant in this application, prays that this application be taken up for hearing on an early date.
2. This application has been preferred by Defendant No.1 in CS(OS) 1239/2015, i.e. Anil Madan.
3. Plaintiff and Defendant No.2 submit that they would file their reply to this application within one week from today.
4. Notice was issued in this application as far back as on 13th February, 2020.
5. This accommodation has been granted as a matter of indulgence and it is made clear that no further time would be granted for this purpose.
6. Mr. Endlaw seeks and is granted one week's time to file rejoinder to the said reply.
7. Renotify this application on 25th September, 2020 before the Court for consideration.

C. HARI SHANKAR, J.

SEPTEMBER 10, 2020

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