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

+ **RFA 548/2015**

MANISHA BHAGAT

..... Appellant

Through: Mr. D. K. Rustagi, Advocate.
(M:8010028939)

versus

SUBHASH CHAND PALIWAL & ANR.

..... Respondents

Through: Mr. Sanjay Agnihotri, Advocate.
(M:9810144147)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **06.03.2018**

CM APPL.4752/2017

1. This is an application seeking clarification of the order dated 9th January, 2017. On the said date, the Court after hearing parties, had passed directions to the following effect.

“1. The appellant/plaintiff is aggrieved by the judgment dated 25.4.2015, pronounced by the trial court in a suit for mandatory permanent injunction instituted by her against the respondents/defendants, seeking directions to complete the formality of registration of an Agreement to Sell dated 10.7.2008, in respect of a plot of land measuring 32 sq. meters situated at Rohini Phase-III, New Delhi. By the impugned judgment and decree, the trial court has dismissed the said suit and aggrieved thereby, the present appeal has been filed.

2. Learned counsel for the appellant asserts that the appellant has all along been in possession of the subject plot, which submission is vehemently



disputed by learned counsel for the respondents who draws the attention of the court to the observations made by the trial court in para 49 of the impugned judgment wherein, the respondents/defendants have been restrained from parting with possession, alienating or creating any third party interest in the suit property, without re-funding the sum of Rs.6 lacs along with an interest @ 9% p.a. to the appellant/plaintiff.

3. Mr. Rustagi, learned counsel for the appellant insists that the appellant was and is still in possession of the subject premises.

4. As the court has been informed that a boundary wall has been raised around the subject plot to secure it with a gate affixed for entry and both the parties claim that they are in possession of the keys of the lock placed on the said gate, to test their bonafides, they are directed to deposit the said keys in court within one week.”

2. Both counsels today submit that the suit property is a vacant land and neither is there a boundary wall nor any gate which is erected in the suit property. In this view of the matter, Applicant/Appellant prays that the order be clarified to the effect that the keys cannot be deposited. Since both the counsel are *ad idem* on the fact that there is no boundary wall and gate, there is no possibility for complying the order dated 9th January, 2017 for deposit of the keys. This Court expresses its disapproval of the conduct of the parties, both of whom had claimed that they are in possession. They are cautioned not to make misstatements in future. It is accordingly recorded that the keys need not be deposited, as there is no boundary wall or gate. The effect of this position shall be examined in the final decision of the appeal.

3. Learned counsel for the Appellant further submits that his client ought



to be deemed to be in possession of the land as there is a possession letter which is admitted in his favour. This question shall also be determined in the final decision of the appeal.

4. CM is disposed of in the above terms.

CM No. 15337/2017

5. LR's have already been impleaded. Application has become infructuous and is disposed of accordingly.

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6. List on 17th May, 2018.

PRATHIBA M. SINGH, J.

MARCH 06, 2018/dk