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

+ **CS(OS) 2691/2015**

GURNAM KAUR

..... Plaintiff

Through: Mr. Pinaki Addy, Ms Neetu Singh &
Ms. Shawana Khan, Advs. (M:
9310342005)

versus

BSES RAJDHANI & OTHERS

..... Defendant

Through: Mr. Manish Kumar Srivastav, Adv.
(appearance not given).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **25.04.2024**

1. This hearing has been done through hybrid mode.
2. The present suit has been filed by the LRs of late. Gurnam Kaur, seeking a decree of mandatory injunction and damages from the Defendants-BSES Rajdhani and SDMC. The Plaintiff, *inter alia* has prayed for a decree of mandatory injunction against the Defendant No. 1 for removal of transformer and electric pole installed in the portion of the suit property bearing no. D-1/20 & D-1/21, Rajouri Garden, New Delhi and further for compensation/damages for losses caused due to the existence of the said transformer and pole.
3. A decree of mandatory injunction was granted by this Court vide order dated 14th July, 2016, wherein the Defendant No.1-BSES Rajdhani was directed to remove the transformer and electric pole installed in the suit property. The relevant portion of the said order reads as follows:



“18. The suit insofar as for the relief of mandatory injunction is accordingly decreed and a decree for mandatory injunction is passed, in favour of the plaintiff and against the defendant No.1 directing the defendant No.1 to remove the transformer and the electricity pole in property No.D-1/20, Rajouri Garden, New Delhi within three months from today.

19. Decree sheet be drawn up.

20. As far as the claim of the plaintiff for recovery of mesne profit is concerned, the plaintiff has claimed the arrears of damages of Rs.23,32,000/- and future damages / mesne profits.

21. The counsel for the plaintiff on enquiry states that the plaintiff, for the first time called upon the defendants No. 1 and 3 to remove the transformer and electricity pole, on 15th April, 2015.

22. The claim for mesne profits/damages for use and occupation can be thereafter only say w.e.f. 1st May, 2015.

23. On the pleadings of the parties with respect to the said claim of the plaintiff, the following issues are framed:

1. To damages / mesne profits with effect from 1st May,2015 at what rate, is the plaintiff entitled to from the defendant No.1 for not removing the transformer and electricity pole from Property No.D-1/20 Rajouri Garden, New Delhi of the plaintiff? OPP

2. Relief.”

4. Against the above decree, a review petition filed by the Defendant No. 1 was dismissed vide order dated 17th March, 2017. The same decree



dated 14th July, 2016 was assailed before the ld. Division Bench in **RFA(OS) No. 17/2017** bearing in '**BSES Rajdhani Power Ltd. v. Gurnam Kaur & Ors.**', wherein vide order dated 24th October, 2017, the said appeal was dismissed as withdrawn. Thus, the only issue to be decided is the quantum of compensation that the Plaintiff is to receive from the Defendant nos. 1 and 3.

5. Today, it is noticed that the *vakalatnama* on behalf of Defendants Nos. 1 and 3 has not been filed. Written submissions of the Defendants are also not on record. The matter is for final hearing. Since the current counsel has been appearing in the matter since January 2024, there can be no reason for seeking an adjournment to file the *vakalatnama*.

6. However, the Court has also considered the matter, including the written submissions dated 23rd April, 2024, filed by the Plaintiff, wherein the Plaintiff has also placed on record the receipt from a security agency amounting to Rs.13,02,589/-. There are two properties involved in the present matter, for which compensation on the ground of devaluation is being sought due to the location of the transformer inside the properties at '**D-1/20 and D-1/21, Rajouri Garden, New Delhi**'. It is admitted that the suit was filed in August 2015 and the transformer was removed by BSES on 28th March 2019.

7. After having perused the matter, this Court is of the opinion that the ld. Counsel for the Defendant Nos 1&3 ought to take instructions if the matter can be resolved by paying a lump-sum of Rs.30 lakhs to the Plaintiff. If the same is not resolved, the matter shall be proceeded on merits. *Vakalatnama* shall be filed within one week as a last opportunity.



8. List on 28th May, 2024.

APRIL 25, 2024/dk/dn

PRATHIBA M. SINGH, J.