



\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 711/2017, CC(COMM) 41/2018, I.A. 12053/2017**
MS. ASHA DASS & OTHERS

..... Plaintiffs
Through: Mr. Varun Kumar, Ms. Pallavi
Chopra and Mr. Shresht Srivastava,
Advocates.

versus

PRIME ROAD SOLUTIONS PVT. LTD. & OTHERS

..... Defendants
Through: None.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

%

09.02.2024

1. Learned counsel for the plaintiffs submit that he has already received the possession of the suit property and the dispute remains in regard to the recovery of rent and mesne profits.
2. From the pleadings of parties, **following issues are framed** :
 - (i) Whether the plaintiffs are entitled to recovery of Rs.10,16,666/- towards arrears of rents for the period 01.04.2017 to 01.06.2017 @ Rs.5,00,000/- per month? OPP
 - (ii) Whether the plaintiffs are entitled to Rs.10,50,000/- towards the arrears of Tax Deducted at Source (TDS) for the period 01.07.2015 to 31.03.2017 and for the period of tenancy which expired on 01.06.2017? OPP
 - (iii) Whether the plaintiffs are entitled to recovery of Rs.8,92,500/- as



arrears of service tax payable by the defendants for the period 01.04.2016 upto 31.03.2017 and for the further period upto 01.06.2017? OPP

(iv) Whether the plaintiffs are entitled to Rs.26,00,000/- towards use and occupation charges/ mesne profits/ damages for the period 02.06.2017 till 15.09.2017 i.e. from the date of filing of the suit till the recovery of possession at the agreed rate of Rs.7,50,000/- per month? OPP

(v) Whether the plaintiffs are entitled to interest on the claim amounts? If yes, at what rate and for which period? OPP

(vi) Relief.

3. **Issues in the Counter-Claim No.41/2018** filed by the defendant are as under:

(i) Whether the plaintiffs (defendants in the main suit) are entitled to damages in the sum of Rs.1 Crore, as prayed? OPP

(ii) Relief.

4. Learned counsel for the plaintiff submits that his witnesses may be permitted to be recorded through Local Commissioner.

5. Considering the submissions made, Mr. Mahesh Chander Gupta, (Retired District & Sessions Judge), Mobile No.9910384727, is appointed as the Local Commissioner for recording of the evidence of the plaintiff.

6. In view of the above, the following directions are being passed:

- i. The fees of the Local Commissioner is fixed at Rs. 15,000/- per date for effective hearing and Rs.3,500/- for ineffective date.
- ii. Costs for recording of evidence through Local Commissioner shall be borne by the plaintiffs.
- iii. In case, any adjournment is taken by one of the parties, the said party shall bear the costs of the said sitting. The Local



Commissioner shall decide on account of which the party/parties, the adjournment has been granted.

- iv. The evidence will be recorded by the Local Commissioner within the High Court precinct.
 - v. In case of requirement of Court file, the Registry shall make the arrangements to send the Court file for the sitting before the Local Commissioner and Rs. 2,500/- is fixed towards the fees to be paid to the Court staff to carry the Court file and the same will be borne by the plaintiffs.
 - vi. The Local Commissioner is requested to complete the recording of evidence of the plaintiffs within three months.
 - vii. The plaintiffs to approach the Local Commissioner within one week for fixing dates for recording the evidence.
 - viii. The parties shall provide full assistance to the Local Commissioner for recording of evidence.
7. List of witnesses be filed and the parties are directed to appear before the Local Commissioner on 21.02.2024. List before Court on 19.9.2024.

I.A. 15286/2021 (under Order XIV read with Order XXVI Rule 9 read with Section 151 CPC on behalf of the plaintiff for framing of issues and appointment of Local Commissioner for recording of evidence)

8. In view of the above, the application is disposed of.

I.A. 5678/2022 (under Order XI Rule 5 read with Section 151 CPC on behalf of the defendant for production of documents)

9. An application has been filed by the defendants who are the plaintiffs



in the counter-claim.

10. None is present for the defendants today.
11. The application accordingly stands dismissed in default.

NEENA BANSAL KRISHNA, J

FEBRUARY 9, 2024/va