

Ex.No. 88/08

New No. 1625/19

17.06.2020

File was not taken up on 28.03.2020 in view of order bearing no. 159/RG/DHC/2020 dated 25.03.2020 passed by the Hon'ble High Court of Delhi and the case was adjourned to 30.05.2020.

File was again not taken up on 30.05.2020 in view of order bearing no. 10514-10614/DJ Central/Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 22.05.2020 passed by the Ld. District & Sessions Judge (HQ) and the case was adjourned to 15.06.2020.

File was again not taken up on 15.06.2020 in view of order bearing no. 11598-11728/DJ Central/Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 14.06.2020 and the matter is adjourned to 17.06.2020.

Present : None.

1. The present proceedings are an enquiry being conducted by this court for determining the mesne profits that are to be paid by the judgment debtors and is being carried out in pursuance of order dated 07.11.2019 passed by the Hon'ble Supreme Court in Civil Appeal No. 8467 of 2019. In view of the said order, the enquiry had to be concluded by 29.03.2020. However, this prescribed time period was extended by the Hon'ble Supreme Court by another three months by its order dated 06.03.2020. As such, the present proceedings are to be concluded by 29.06.2020 and therefore, this case falls in the category of 'urgent cases' referred to in the aforementioned



order of the Ld. District & Sessions Judge dated 14.06.2020 and is required to be taken up by this Court today.

2. On the last effective date of hearing i.e. 16.03.2020, the application of the decree holders for determination of mesne profits was taken up for consideration and it was contended on behalf of the decree holders that parties are to be granted an opportunity to lead evidence after issues are framed by the Court. The Ld. Counsels appearing for the decree holders had filed proposed issues in which also it was stated that the matter has to be listed for recording of evidence.
3. Even though this Court is required to conduct only an enquiry into the amount of mesne profits that is to be paid by the judgment debtors, if evidence is to be lead, it shall be appropriate that issues are framed since it will put the parties to notice of the material propositions in conflict on which evidence has to be lead.
4. Order XIV Rule 1 (5) of Code of Civil Procedure provides for hearing the parties or their pleaders before issues are framed. The court has certain queries on matters which have a bearing on the quantum of mesne profits to be determined by the court and want the ld. counsels for the parties to address arguments on it. However, no one has appeared on behalf of the parties today.
5. Since the present case is to be concluded within the time prescribed by the Hon'ble Supreme Court, it shall be appropriate if the queries of the court are enlisted so that the



Ld. Counsels come prepared on the next date of hearing and are able to assist the Court in arriving at a just decision in the case. The following are the queries of the court on which the Ld. Counsels for the parties are requested to address arguments on the next date of hearing:

- i. By what percentage should the rate of rent be reduced/increased from the rental of the properties provided in the lease deeds filed by the Decree Holders which pertain to years 2016 and 2018 to calculate the rate of rent for the period starting from the year 1999?
- ii. Should the Court give precedence to the license deed dated 26.04.2016 pertaining to part of property bearing plot no. 1, Block-B, Jhandewalan Estate, Delhi, over all other lease deeds relied upon by the parties, since this property is adjacent to the property in question in the present case and is therefore similarly situated?
- iii. Should the Court not consider only the profits earned by the decree holders from the adjacent plots bearing no. 1 and 3, Block B, Jhandewalan Estate, Delhi which are of the decree holders and consider that to be rate of mesne profits that the decree holders are entitled to in the present case?
- iv. What will be the effect of admission of the decree holders with respect to the quantum of mesne profits as made in paragraph no. 34 of their application under Section 151 of Code of Civil Procedure dated 26.03.2015



bearing CM (M) No. 5842 of 2015 filed before the Hon'ble High Court, on the amount that is to be determined by this Court?

- v. Does the plot no. 2, Block B, Jhandewalan Estate fall in category 'D' or 'E' of notification issued for prescribing circle rates in Delhi?
- vi. Will the Court determine the mesne profits of the property by considering it capable of being used for commercial purpose or will it be calculated for a plot which can be used only for discharging a public utility service?
- vii. Since the lease deeds filed by the parties are on smaller plots, in what manner and at what rate will the rate of rent for the property in question be effected since it is a larger property? Is the rate of rent for a larger property lesser or more than the rate of rent of a smaller property?
- viii. Is the structure of the property in question is dilapidated? If yes, by what percentage should the rate of rent be reduced on account of the property being in such condition?
- ix. What is the effect on the mesne profits since part of the property has admittedly collapsed?




- x. Will there be an effect on the rate of rent since the title of the property is in dispute and litigations qua it have been pending?
- xi. By what percentage should the mesne profits be reduced since possession of six rooms was delivered to the decree holders on 14.11.2000 (this is the date as per the revised written submissions dated 18.02.2020 filed by the decree holders in this court)?
- xii. Are mesne profits to be calculated only of the superstructure/built up property? If yes, how will the mesne profits calculated on the basis of the rentals mentioned in the lease deeds filed by the parties, be affected since the rent in the lease deeds pertain to properties which include value of the land over which the superstructure is built?
- xiii. By how much is the amount determined to be reduced on account of the fact that the decree holders have already paid rent and "user charges", as was directed by the Hon'ble High Court of Delhi by its order dated 02.07.2008 in case bearing CM(M) No. 516/07?
6. In addition to addressing arguments by the Ld. Counsels for the parties through video conferencing on the next date of hearing, the Ld. Counsels are requested to send brief written submissions on the aforementioned aspects at the e-mail



arc1.central4220@gmail.com
address ~~Shirish.aggawal@ajj.gov.in~~ before 10:00 AM on
the day prior to the next date of hearing.

7. The decree holders are also directed to e-file (refer the aforementioned order no. 11598-11728/DJ Central/Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 14.06.2020 which extended the facility of e-filing to the Civil Courts) an affidavit disclosing the area and description of plots no. 1 and 3, Block-D, Jhandewalan Estate, Delhi and the earnings from these plots for the time period from 11.11.1999 till 27.12.2019. They are further directed to e-file a site plan and photographs of these plots, preferably including a photograph like they had earlier filed as Annexure 15 to the Rejoinder dated 21.02.2020, which contained a panoramic image of the entire plot in one photograph. The affidavit, site plan and photographs be also emailed at the aforementioned email address.
8. To come up for arguments on the aforementioned aspects and for further proceedings on 22.06.2020.
9. Issue notice to the Ld. counsels for the parties informing them of the aforementioned directions and the details that will be required by them for joining the video conference on the next date of hearing. Copy of this order be sent alongwith the notice.


(Shirish Aggawal)
ARC-1, Central District
Tis Hazari Courts, Delhi
17.06.2020

E. No.02/17

New No.18/17

17.06.2020

File was not taken up on 18.04.2020 in view of order bearing no. 7225-7305/DJ Central/Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 15.04.2020 passed by the Hon'ble District & Sessions Judge (HQ) and the case was adjourned to 17.06.2020.

File is taken up today in view of the order bearing no. 11598-11728/DJ Central/Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 14.06.2020 passed by the Hon'ble District & Sessions Judge (HQ).

Present: None.

No one has appeared through video conferencing.

As such, matter is adjourned for purpose fixed to 12.10.2020.



(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
17.06.2020

E.No.88/19

New No. 536/19

17.06.2020

Present : None.

No one has appeared through video conferencing.

As such, matter is adjourned for purpose fixed to 12.10.2020.



(Shirish Aggawal)
ARC-1, Central District
Tis Hazari Courts, Delhi

E.No.1013/14

New No. 79670/16

17.06.2020

Present : None.

No one has appeared through video conferencing.

As such, matter is adjourned for purpose fixed to 12.10.2020.



(Shirish Aggawal)
ARC-1, Central District
Tis Hazari Courts, Delhi

M.No. 47/19

New No. 751/20

17.06.2020

File was not taken up on 28.03.2020 in view of order bearing no. 159/RG/DHC/2020 dated 25.03.2020 passed by the Hon'ble High Court of Delhi and the case was adjourned to 30.05.2020.

File was again not taken up on 30.05.2020 in view of order bearing no. 10514-10614/DJ Central/Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 22.05.2020 passed by the Ld. District & Sessions Judge (HQ) and the case was adjourned to 15.06.2020.

File was again not taken up on 15.06.2020 in view of order bearing no. 11598-11728/DJ Central/Lockdown COVID-19/AD&SJ Duty & Arrangements/2020 dated 14.06.2020 and the matter is adjourned to 17.06.2020.

Present : None.

To come up alongwith connected case on 22.06.2020.



(Shirish Aggawal)
ARC-1, Central District
Tis Hazari Courts, Delhi