

In The Court of Shivali Sharma
Additional District Judge03 (West)
Tis Hazari Courts, Delhi.

Suit No.CIV/DJ:

Jasbir Kaur vs Deepak Kumar & ors.

THROUGH WEBEX VIDEO CONFERENCING (from 11.30 AM to 12.30 PM)

Date: 23.05.2020

Present: Shri Pradeep Kumar, Ld. counsel for plaintiff

(Mobile number:9910857195)


(E-mail ID: pradeep.lwyr28@gmail.com)

Shri Harish Kumar, Ld. counsel for defendant no.1.

(Mobile number:8010079176)

(E-mail ID:harishhm08081991@gmail.com)

1. Present suit was filed on 11.05.2020 by the plaintiff against three defendants. This is a suit for permanent and mandatory injunction primarily seeking injunction against defendant no.1 restraining him from making unauthorized construction on 3rd floor of the suit property. Vide order dated 11.05.2020, Ld. Duty Officer had directed the plaintiff to serve all the defendants through electronic mode including e-mail, whatsapp and messaging on their mobile numbers and furnish proof of the service on the next date of hearing. Thereafter, Ld.counsel for defendant no.1 started appearing but there was no representation on behalf of defendant no.2 & 3. Plaintiff has also not furnished



23/05/2020

proof of service on defendant no. 2 & 3 till date as directed vide order dated 11.05.2020. He is directed to comply with the said directions and furnish proper proof of service on or before the next date of hearing through e-mail.

2. In the meanwhile an application u/o 6 rule 17 CPC was filed by the plaintiff for impleading three more defendants including one Kamla, who is the mother of defendant no.1 and joint owner of the property in dispute. The other two defendants sought to be included are two of the previous owners of the suit property.

3. Today, it is submitted by the ld.counsel for the plaintiff that proposed defendant no. 5 & 6 namely Smt Balvinder Kaur and Smt Suman Miglani are not proper or necessary party in the present suit as they are neither in possession nor the owner of the suit property as on date. Accordingly, it is submitted that he may be permitted to withdraw the present application u/o 6 rule 17 CPC, which has also been replied to by defendant no.1. It is submitted that he shall make a proper application u/o 6 rule 17 CPC for impleading only Smt Kamla, a co-owner of the suit property as defendant no.4.

4. It is submitted by the ld.counsel for defendant no. 1 that he has no objection to the withdrawal of the present application. It is also submitted by Shri Harish, Ld.counsel representing defendant no.1 that he shall also be representing Smt. Kamla, who is the mother of the defendant no.1 in case she is made a party to the present suit. Accordingly, it is requested that an advance notice of the application u/o 6 rule 17 CPC, in case filed by the plaintiff, be directed to be issued to him on his e-mail address so that he can reply to the same in advance.


23/05/2020

5. In view of the submissions made, the application u/o 6 rule 17 CPC filed by the plaintiff which is already on record is dismissed as withdrawn. The plaintiff is directed to serve the copy of the new application u/o 6 rule 17 CPC, in case filed, upon Ld. counsel for defendant no.1 through e-mail. Reply to the same be also filed in advance through e-mail with advance copy to opposite party.

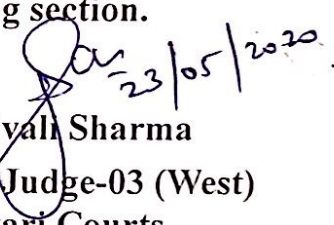
6. I have also heard submissions on the merits of the case. On going through the record it is found that the complete set of the property documents are not available on record. As per the documents filed on record, defendant no.1 alongwith Smt Kamla had purchased entire 2nd and 3rd floor of the suit property with roof rights vide registered documents dated 17.02.2020. These documents mention that Smt Suman Miglani had purchased the property from one Balvinder Kaur through registered documents dated 02.04.2014. Shri Balvinder Kaur had purchased the entire 2nd floor of the suit property with roof rights from Shri Santokh Singh (husband of the plaintiff) vide documents dated 21.08.2009. The documents of the transfer of the property from Balvinder Kaur to Suman Miglani which are admittedly in possession of defendant no.1 have not been filed on record. Those documents are required to be looked into before the injunction application can be decided as it will give clarity as regards the status of construction in the suit property at that time which is the main bone of contention between the parties as plaintiff is alleging fresh construction being made on third floor of the suit property while the defendant no. 1 is alleging that he is merely doing renovation and whitewash work on the construction already done on the third floor of the property as purchased by him. Accordingly, defendant no.1 is directed to file the said documents on record by way of e-mail. The advance copy

Jan
23/05/2020

of the same be also supplied to the ld.counsel for the plaintiff through his e-mail.

7. On request matter is re-notified for 02.06.2020 before the concerned court for consideration of application u/o 6 Rule 17 CPC, in case filed by the plaintiff as well as for hearing on the application u/O 39 Rule 1&2 CPC.

Copy of this order be uploaded on web site and be also sent on the e-mail IDs of the counsels for the plaintiff and defendant no.1 by the filing section.


23/05/2020
Shiyali Sharma
Additional District Judge-03 (West)
Tis Hazari Courts
Delhi.
(Duty Officer)

In The Court of Shivali Sharma
Additional District Judge-03 (West)
Tis Hazari Courts, Delhi.

Caveat Petition No.----of 2020
The City Square Mall Management & another vs M/s Dgito @Dgito
Technical Training Services Pvt.Ltd & another

THROUGH WEBEX VIDEO CONFRENCING (at 11 AM)


Date: 23.05.2020

Fresh Caveat received . The same has been put before me by the filing section Tis Hazari Court by sending it through e-mail. It be checked and registered as per rules.

Present: Shri Devender Dhiryman, Ld. counsel for Caveators.
(Mobile number: 9811403534)
(E-mail ID: devdhiryan@yahoo.in)

The caveat is perused. Same be taken on record. Caveators are directed to file the complete paper book within 15 days after opening of the lock down. Caveators are also directed to make compliance of section 148A(2) CPC in addition to the service on the opposite party by e-mail which is stated to have been already made.

Copy of this order be uploaded on web site and be also sent on the e-mail ID of the counsel for the caveators by the filing section.


Shivali Sharma
Additional District Judge-03 (West)
Tis Hazari Courts,
Delhi.
(Duty Officer)
23/05/2020