

% 08.12.2010

Present: Ms. Pratibha M. Singh & Ms. Archana Sachdeva,
Advocates for the Appellants.
Mr. Saurabh Banerjee & Mr. Neeraj Kumar, Advocates
for the Respondents.

+ FAO (OS) No.7/2009 & CM No.2381/2009
+ FAO (OS) No.8/2009 & CM No.2381/2009
+ FAO (OS) No.9/2009 & CM No.2379/2009

The appeals and cross-objections are directed against the impugned order dated 11.12.2008 in terms whereof the interlocutory applications for injunction have been decided. The decision is of 11.12.2008 and we are informed that the suit has thereafter proceeded to trial and is pending before the Joint Registrar and the next date fixed is in the month of March, 2011.

It is trite to say that any decision on the interlocutory application is only with the objective of deciding as to what interim arrangement should be in place till the suit is finally decided. It is, thus, agreed that the solution lies in expediting the suit so that the matter can be placed before the learned single Judge for final arguments in the suit.

The following agreed directions are passed:

- i. It is agreed that the evidence of the parties would be recorded before a retired Judicial Officer acting as a

Local Commissioner in view of the heavy boards of the Joint Registrars where it is not possible to get early dates.

- ii. The arrangement for recording of evidence will be made by the parties and would be within the premises of the High Court.
- iii. The parties will endeavour to complete recording of evidence within a maximum period of four (4) months from the first date fixed before the Local Commissioner whereafter the files will be placed before the learned single Judge who will fix an actual date for final hearing in the suit.
- iv. The parties assure this Court that no unnecessary adjournments will be taken and they will assist in early trial of the matter.
- v. It is agreed that the evidence will be recorded in CS (OS) No.2013/2007 for all the three suits and that the appellants will lead the evidence first. The evidence will be read in all the three suits.
- vi. Mr. D.C. Anand, District Judge (Retd.), R/o Flat No.45/7, Rajpur Road, Civil Lines, Delhi (Ph. No.23967657) is appointed as the Local Commissioner to record evidence.

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vii. The fee of the Local Commissioner is fixed at ₹50,000.00 apart from out of pocket expenses to be shared equally by the two parties.

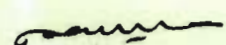
viii. It is agreed that the first sitting of the Local Commissioner will be on 22.12.2010 at 4:00 p.m. for directions.

Needless to say that any observations made in the impugned order are only for purposes of deciding the interim application and would not prejudice the final trial in any matter.

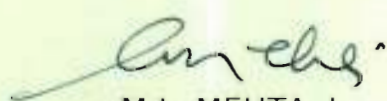
The appeals and the cross-objections accordingly stand disposed of.

Dasti to learned counsels for the parties.

A copy of the order be sent expeditiously to the Local Commissioner.


SANJAY KISHAN KAUL, J.

DECEMBER 08, 2010
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M.L. MEHTA, J.