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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ FAO(OS) 351/2013
MRS POONAM KAPHAI

..... Appellant

Through : Mr. Ashok Gurnani, Adv.

versus

SH PRADEEP MALHOTRA & ORS

..... Respondents

Through : Mr. Sanjay Jain, Sr. Adv. with
Ms. Vandana Sehgal, Mr. Rohan
Thawani, Mr. Hardeep Singh Anand,
Ms. Kriti Singh Ghlourt, Ms. Ashama
Sehgal and Ms. Ruchi Jain, Advs.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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02.08.2013

The present appeal is directed against an order dated 7th October, 2013 made by learned Single Judge permitting the extension of a lease in favour of the Embassy of Saudi Arabia for a period of thirty months with effect from 1st October, 2012. The plaintiff in the pending suit CS(OS) 2565/2010 claims a share in the suit property which is the basement, ground and first floor of 2, Paschimi Marg,

Vasant Marg, New Delhi. The suit is premised upon the amendment made to Section 6 of the Hindu Succession Act. The plaintiff contends that she is entitled to a share equal to that any of the co-parceners in the suit property. The learned Single Judge after considering the submissions of the parties felt that the plaintiff did not urge any cogent reasons for refusing to extend the lease, and that the order was necessary to preserve the property. It had also been concurrently apprised of the fact that no other offer to lease the premises during the pendency of the suit had been made.

It is contended by Mr. Gurnani, learned counsel for the appellant that the impugned order results in extraordinary prejudice inasmuch as the proceedings in the suit are a mere formality and are likely to be decreed at any time. It was contended that if the impugned order is allowed to stand, it would result in grave prejudice to the plaintiff's rights inasmuch as in the event of the preliminary decree being drawn up during the subsistence of tenancy, the plaintiff would be unable to seek a final decree for partition and for separate physical possession of her share of the suit property. It was further contended that even if the property were to be put to auction, due to

the subsistence of the lease, the property would be incapable of fetching as much as it would have if vacant property were handed over to the auction purchaser.

This Court has considered the submissions. The suit was filed in 2010. The lease originally granted in favour of the Embassy of Saudi Arabia has been in existence of the last ten years. All that the Court has done is to extend the period for further thirty months with effect from 1st October, 2012. The period of lease would thus end on 31st March, 2015. The Court is also conscious of the fact that the respondent/defendant has preferred an application under Order VII Rule 11 CPC and the issues have not yet been framed.

Having regard to these overall conspectus of circumstances, the Court is satisfied that the impugned order would not cause any irreparable prejudice of the nature being advocated by the counsel.

The appeal is devoid of merit and is, therefore, dismissed.


S. RAVINDRA BHAT, J


NAJMI WAZIRI, J

AUGUST 02, 2013

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