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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 49/2016**

M/S JAGDAMBEY BUILDERS PVT LTD Appellant

Through **Mr Mayank Bansal, Advocate.**

versus

JATINDER SINGH VOHRA Respondent

Through **Mr K.R. Chawla with Ms Renu Verma,
Advocates.**

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% 16.03.2016

1. We have heard the learned counsel for the parties.
2. This is an appeal against the order dated 14.01.2016 passed in IA No.5533/2015 whereby the plaintiff's application under Order XXXIX Rules 1 & 2 CPC has not been allowed. The plaintiff/appellant sought an order restraining the defendant/respondent from transferring, alienating or creating any third party interest in the suit property, which is the entire first floor of the property bearing No.A-14, Neeti Bagh, New Delhi, during the pendency of the suit. The suit is one of specific performance. A restraint order was also sought against the defendant/respondent from dispossessing the plaintiff/appellant from the said portion of the said property.
3. The fact of the matter is that in separate eviction proceedings, the

“Orders

Pr. Case No. 10/96

IA.2078/96

Notice for 7th of August 1996.

February 29, 1996

4. Subsequently, another learned Single Judge of this Court on

06.08.2009 directed that interim order shall continue to bind the parties. Admittedly, the respondent is a party to the testamentary case. In other words, the respondent/defendant is bound by the order dated 29.02.1996, whereby, there is a restraint from alienating, transferring, creating any third party interest or parting with possession of the property bearing No.A-14, Neeti Bagh, New Delhi, which includes the first floor of the said premises.

5. In these circumstances, we do not feel it is necessary to pass any further restraint order. This is so because there is already a restraint order. Insofar as the respondent is concerned, he has been restrained from alienating, transferring, creating any third party or parting with possession of the entire property bearing No.A-14, Neeti Bagh, New Delhi which includes the first floor of the said property, which is the subject matter of the present suit. In case, the interim order in the said testamentary case is vacated for any reason, it would be open to the appellant/plaintiff to apply for interim orders/directions in the suit proceedings.

6. The appeal stands disposed of.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MARCH 16, 2016/st