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

+ **CS(OS) 451/2016 & IA No.11075/2016 (u/O 39 R-1&2 CPC)**

JASBIR SINGH Plaintiff

Through: Mr. Atul Bandhu, Adv.

Versus

NAVNEET SINGH & ANR Defendants

Through: Mr. Varun Kumar, Adv. for D-1.
Mr. Divey Kant, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **19.10.2016**

1. Though the report of service of defendant No.2 is that she was not available at the address given but the counsel for the defendant No.1 as well as the counsel for the defendant No.2 appear.
2. The plaintiff has instituted this suit pleading:
 - (i) that the plaintiff is the part owner of property No.BT-23, West Shalimar Bagh, Delhi and has been residing in the said property along with his wife and a mentally disabled daughter;
 - (ii) that the defendant No.1 is the son of the plaintiff and the defendant No.2 is the wife of the defendant No.1 and both of them were also permitted by the plaintiff to reside in the aforesaid house on account of relationship;
 - (iii) that the relationship between the two defendants is estranged, resulting in disturbance to the plaintiff, his wife and his disabled daughter;

- (iv) that for this reason, the plaintiff has also disinherited the defendant No.1 from his properties;
- (v) that the defendant No.2, being the daughter-in-law of the plaintiff, has even otherwise causing nuisance to the peaceful existence of the plaintiff, his wife and his disabled daughter in the aforesaid property.

As such, the reliefs of (a) recovery of possession of the portion of the property in possession of the defendants; (b) mandatory injunction directing the defendants to remove their belongings from the property; and, (c) permanent injunction restraining the defendants from interfering with peaceful enjoyment of the aforesaid property by the plaintiff, are claimed in the suit.

3. The suit was entertained and summons issued to the defendants.
4. The counsel for the defendant No.1 who is the son of the plaintiff states that both the defendants of their own have left the aforesaid property and have no objection to it being so recorded and have no intent to disturb the plaintiff's possession of the property.
5. The counsel for the defendant No.2, who is the daughter-in-law of the plaintiff, though confirms that the defendant No.2 also is now not in possession of the property but states that the plaintiff has refused / stopped entry of the defendant No.2 to the property, forcing the defendant No.2 to reside with her parents and a First Information Report (FIR) of the said incident has also been filed.
6. The counsel for the defendant No.2 contends that the suit has thus become infructuous and may be dismissed.

7. The counsel for the plaintiff confirms that the defendants No.1&2 are now not in possession of any part of the aforesaid property and the plaintiff is in possession thereof.

8. On enquiry, whether any of the belongings of the defendants are lying in the property, the counsel for the plaintiff states that the defendants have taken all their belongings except that the defendant No.2 has kept locked one wooden almirah in which the plaintiff suspects there is nothing.

9. The counsel for the defendant No.2 states that there may be some belongings of the defendant No.2 in the property but he is not aware of the same.

10. The counsel for the defendant No.2, on enquiry, whether the defendant No.2 has any title to the property aforesaid, fairly states that the defendant No.2 has no title and was residing therein as the wife of the defendant No.1; it is further informed that matrimonial disputes between the defendants No.1&2 are pending adjudication.

11. In view thereof, the suit is disposed of as under:

(I) The factum of the plaintiff having recovered possession of the portion of property No.BT-23, West Shalimar Bagh, Delhi, for recovery of possession whereof this suit is filed, is recorded;

(II) Liberty is granted to the defendant No.2 to, if has any claim of residence in the said property or any part thereof or to any of her belongings lying therein, agitate the same in accordance with law;

(III) The defendants are otherwise, save under orders and directions in any Court proceedings, restrained from entering property No.BT-23, West Shalimar Bagh, Delhi and from causing any disturbance to

the possession / residence of the plaintiff and his wife and daughter thereof / therein;

The parties are left to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

OCTOBER 19, 2016

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