

\$~30-31

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

+ **RFA 147/2016**

SURESH KUMAR Appellant

Through: Mr. C.S. Parashar, Advocate (M-9811026863).

versus

SHANTI DEVI

..... Respondent

Through: Mr. Rakesh Patyal, Advocate (M-9811539888).

AND

+ **RFA 387/2016**

SHANTI DEVI Appellant

Through: Mr. Rakesh Patyal, Advocate (M-9811539888).

versus

SURESH KUMAR Respondent

Through: Mr. C.S. Parashar, Advocate (M-9811026863).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

%

30.05.2018

1. The Appellant is the mother of the Respondent. She filed a suit for possession and mesne profits along with recovery of Rs.3,80,000/- in respect of property bearing no. C-594, Budh Bazar, Nathu Pura, Delhi. There is no dispute as to the title of the mother. However, the suit was partly dismissed

by the Trial Court in respect of recovery. Insofar as possession was concerned, the Trial Court decreed the suit and granted mesne profits to the tune of Rs.5,000/- per month from date of institution till date of decree and future damages @ Rs.7,000/- per month. Cross appeals have been filed by both the parties.

2. During the course of hearing, parties wished to explore the possibility of settlement. Accordingly, a chamber hearing was held in the matter with the parties, in presence of counsel.

3. The suit property consists of one shop and three rooms behind it along with an open area and a bathroom area. The site plan of the property is exhibited as Ex.PW1/1 in the Trial Court record. The entire property is currently in the possession of the son.

4. The parties have agreed to resolve the dispute and differences on the following terms and conditions:

i) Sh. Suresh Kumar has agreed to hand over vacant and peaceful possession of the entire property except the shop on or before 31st August, 2018. The portion that would be handed over by him would be the three rooms behind the shop which are marked in red as portion X, the vacant area and the bathroom/latrine area. Currently, the access to the rooms is through the shop. The said access would be closed. Suresh Kumar would create a separate gate for independent access of the open area and the three rooms, as marked in red colour outside the shop. A wall shall be constructed, at a distance of 10 feet, from the extreme right side of the property separating the shop from the remaining area of the property, as shown in **Annexure A**. The gate shall be of 6'x4' in height x width. The gate shall be constructed by

Sh. Suresh Kumar at his own expense on or before 31st August, 2018. The gate shall be independent from the shop in the manner as depicted in the site plan attached. Upon the said gate being constructed and access being provided, the entire portion marked in red shall be occupied by Smt. Shanti Devi without any interference by Sh. Suresh Kumar or his family members. Smt. Shanti Devi would be entitled to peaceful enjoyment of the said portion 'X' consisting of three rooms, open area, bathroom area - with independent access, w.e.f. 1st September, 2018

ii) Sh. Suresh Kumar has agreed to hand over vacant and peaceful possession of the shop on or before 30th May, 2020. Until then he would be entitled to conduct his business from the shop without in any manner interfering with the ingress and egress of Smt. Shanti Devi to her portion of the property. The only area of the suit property which Sh. Suresh Kumar would be entitled to access is the portion marked in orange i.e., the shop. He or his family members would not be entitled to have access to any other portion of the suit property. He shall also close the access to the rooms at the back which has been provided through the shop.

iii) For the enjoyment of the shop and for conducting business therefrom, he shall pay an amount of Rs.10,000/- per month for use and occupation charges of the shop to his mother-Smt. Shanti Devi. The said payment shall be made w.e.f. 1st September, 2018 by way of Demand Draft on or before the 10th day of every month, which would be given in the name of Smt. Shanti Devi. Until then, Sh. Suresh Kumar will continue to pay his mother Rs.7000/- per month as

already fixed by the court for the use and occupation charges of the entire property;

iv) If Smt. Shanti Devi wishes to permit Sh. Suresh Kumar to occupy the shop beyond 30th May, 2020, it shall be completely as per her own wishes and volition and on the terms on which she would like to give to her son.

v) Sh. Suresh Kumar does not challenge in any manner the right or title of Smt. Shanti Devi in the suit property and shall also not claim any right, title or interest in respect of any portion of the property in future;

5. Both Sh. Suresh Kumar and Smt. Shanti Devi are present in court. They have been explained the terms and conditions in the vernacular language by their counsels to them.

6. The above terms and conditions are taken as undertakings to the court and are accepted by the court. In case Sh. Suresh Kumar violates any of the terms or conditions stated above, Smt. Shanti Devi is given liberty to approach the court or to avail any remedies available to her in accordance with law. The site plan with the red portion marked as 'X' and the orange portion duly marked is attached to the present order sheet as **ANNEXURE 'A'**. The site plan has been counter signed by the counsels as also the parties. A copy of this order shall be sent to the SHO, PS Burari to ensure that Smt. Shanti Devi is not disturbed in her peaceful enjoyment of the suit property in any manner by Sh. Suresh Kumar or by his family members.

7. Both the parties have appended their signatures below giving their consent to the terms and conditions contained hereinabove.

8. Both the appeals are disposed of as settled. The judgment/decreed is

modified in the above terms. Decree sheet be drawn accordingly.

9. A copy of this order be given *dasti* under signature of the Court Master.

PRATHIBA M. SINGH, J

MAY 30, 2018

Rahul