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

+ **FAO 133/2018 C.M.No.14147/2018(stay)**

VINOD KUMARI

..... Appellant

Through: Mr. Pramod K. Sharma along with
Ms. Ankita Vashisht, Advs.

Versus

RAJNI DEWAN & ORS

..... Respondents

Through: Mr. Kirti Uppal, Sr. Adv. along with
Mr. Pradeep Kumar & Mr. Rishi
Lakhanpal, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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22.05.2018

In terms of the Local Commissioner's Report dated 14.05.2018, the appellant is in possession of the basement which as per the photographs is evidently in a state of abject disrepair. The appellant's concern is that she be allowed to put it in such order so as to not lend any kind of security and health hazard and to prevent collection of rain water during the monsoon season or drain-off water throughout the year. It is the appellant's case that she is the owner of the property.

The impugned order dated 22.12.2017 restrains the appellant from creating any third party interest in the basement or from dispossessing the plaintiff therefrom. Since the appellant has been shown by the Local Commissioner to be in possession of the basement, dispossession of the plaintiff (respondent herein) would not arise.

Mr. Uppal, the learned Senior Counsel for the respondents disputes

the right of the appellant to possess the basement. He also submits that the installation of a makeshift wooden plank as a door (at page 11 of the report) clearly shows that it was hurriedly and temporarily arranged only for the sake of showing a restraint from free access of others into the basement. He submits that the door is no barrier or hindrance to people who may want to enter the basement; the photographs annexed to the LC's Report would show the large open spaces providing clear access to anybody.

Be that as it may, the parties agree that third party rights will not be created in the basement. The appellant, however, would be free to clear up the basement so as to ensure that it will not become an inconvenience and in terms of any kind of health or security hazards to them or to the other users of the building.

As recorded in the order dated 24.04.2018, the appellant will be free to carry out such constructions/repairs/renovations as may be necessary to secure it from water seepage, as well as the elements and to make it convenient for use. However, such repair/renovation/construction or expenses made by her would not create any special equities in her favour.

The learned counsel for the appellant submits that the respondents are free to access and use the upper ground floor and their proportionate share in the stilt parking. The building materials lying in the stilt parking area shall be removed by the appellant within a week from today. The respondents shall be free to use their share of the stilt parking for their motor vehicles.

No further orders are required in the appeal. Nothing observed in this order shall be deemed to be an adjudication on the merits of the case.

The appeal, along with pending application, is disposed off in the above terms.

A copy of the order be given *dasti* to the parties under the signatures of the Court Master.

NAJMI WAZIRI, J.

MAY 22, 2018/bh