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

+ **CS(OS) 358/2018 & I.A. 9779/2018**

SANJAY GUPTA & ANR. Plaintiffs

Through: Mr. Manoj Ohri, Senior Advocate
with Dr. Sarvam Ritam Khare, Ms.
Urvi Kuthiala, Mr., Sagar Bhardwaj,
Advocates. (M-9716023080).

versus

AJAY GUPTA & ORS. Defendants

Through: Mr. Ashish, Advocate with Defendant
No.1 in person. (M-9810057257)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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02.08.2018

1. The Defendants have entered appearance. Defendant no.1, Mr. Ajay Gupta, is personally present in Court. He is Defendant No.1 and is also the Shareholder/Director of Defendant No.2, M/s. Shitiz Metals Ltd. He is also the husband of Defendant No.3.
2. On a query from the Court, learned counsel for Defendant No.1 submits that in his capacity as Director of Defendant No.2, the second floor of property bearing No. D-819, New Friends Colony, New Delhi was sold to Plaintiff No.2 by Defendant No.1. He however did not sell it in his personal capacity. He submits that Mr. Ajay Gupta has no intention of causing any obstruction in the peaceful and uninterrupted use of the common gate, passage and staircase in the property, by the Plaintiffs.
3. Accordingly, nothing further survives in this suit inasmuch as the

prayer in the suit is as under: -

“(i) Pass a decree of permanent Injunction in favour of the plaintiff and against the defendant thereby restraining the defendants, their agents, assigns, servants, representatives etc. from causing obstruction of any kind In the peaceful, uninterrupted and continuous use of the common gates, passages and the staircase to enter and exit to and from the second floor of the 819-D, New Friends Colony, Delhi.”

4. Mr. Ajay Gupta submits that he would not cause any obstruction or interrupt use of the common area of the property by the Plaintiffs. He further submits that there is a litigation pending in the District Court, Saket where Plaintiff No.2's rights to the second floor of the suit property are in question. This Court has not decided any issues on merits insofar as ownership or title of Plaintiff No.2 is concerned. The same is left open to be adjudicated in an appropriate litigation. The prayer in the present suit is restricted in terms of the injunction against the Defendants to which the Defendant No.1 has no objection. It is not in dispute that the Plaintiff No.1 is in possession of the second floor of the property.

5. Accordingly, the suit is decreed in terms of paragraph 26(i) of the plaint against the Defendants. The issue of ownership of the Plaintiffs is left open. Decree sheet be drawn.

6. Suit and all pending I.As are disposed of.

PRATHIBA M. SINGH, J.

AUGUST 02, 2018

Rekha