

\$~9

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

+ **FAO 239/2017**

M/S NACHIKETA CONSTRUCTION PVT LTD Appellant
Through: Mr. Sumesh Gandhi, Adv.

Versus

RASHMI MADAN & ANR Respondents
Through: Mr. Rohit Jain and Mr. Gaurav Jain,
Advs.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% 05.04.2018

The learned counsel for the appellant states that he would not press the appeal on merits, however, since the suit is pending for the last six years he would request that it be expedited. He claims to be unlawfully dispossessed from the suit property.

The learned counsel for the respondents submits that there is no question of unlawful dispossession; indeed the respondents has been in lawful possession of the suit property pursuant to the Sale Deed. He refers to para 8 of the Written Statement which avers that the property was delivered to the respondents pursuant to the Sale Deed; that the appellant tried to create some difficulty in the said possession. He submits that only some repair/ completion work were remained to be executed by the appellant. The relevant portion of the Written Statement reads as under:

“.... 8. The contents of Para 8 of the plaint as stated are not admitted. The physical possession had been given at the time of execution of the Sale Deed by the Plaintiff to Defendant No.1

and that Defendant had been in actual legal possession of the basement and ground floor of the property in question. It is, denied that Defendant had colluded with some undesired elements and damaged the sign board. In fact, the sign board had been put up at the site by the Plaintiff with ulterior motive. Plaintiff without there being any reasonable cause started doubting the possession of the Defendant particularly when Plaintiff knew it fully well that possession of basement and ground floor had been given by the Plaintiff to the Defendant and that any minor repair which was left to be completed had to be completed at the behest of the Plaintiff. However, that did not mean that possession of the premises at basement and ground floor was with the Plaintiff.....”

The Trial Court has recorded that the status of possession itself is not clear on the record; it would need trial and the issue could not be decided by hearing arguments only. The appeal is not being pressed by the learned counsel for the appellant on merits. Instead he seeks a relief of expedited disposal of the suit. The learned counsel for the respondent, fairly, has no objection to an early disposal of the litigation.

In view of the aforesaid, the Trial Court is requested to expedite the hearing of the case and endeavour to dispose of the suit by the end of this year. The learned counsel for the parties submit that they shall promptly assist the Court on every date when the case is so fixed.

The appeal is disposed of in the above terms. Nothing stated in the order shall be deemed to be an adjudication on the merits of the case.

NAJMI WAZIRI, J

APRIL 05, 2018/kk