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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 895/2016

KALPANA

..... Appellant

Through: Appellant in person.
versus

PREM WATI & ANR.

..... Respondents

Through: Mr. Subhash Kumar Jha, Proxy counsel
for R-1 with R-2 in person.
(M:9999054180)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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13.04.2018

The present appeal was disposed of on 16th March, 2018 in the following terms:

“4. Before this Court, the parties have been appearing for the last three hearings and parties were discussing an amicable resolution of the matter. Today, the parties are again present. With the intervention of their counsels they have been able to resolve the matter amicably. The parties have thus settled their disputes on the following terms and conditions:

i) The Defendant No. 2 shall make available alternate premises at First Floor, H-103, Janta Jeevan Camp, Tigri, New Delhi-110062 (hereafter, ‘alternate premises’) for the use and occupation of the Defendant No.1. This premises is in the neighbourhood of the suit property. She would be permitted to stay there so long as the matrimonial case (HMA No. 554 of 2013 Kamal Vs. Kalpana pending in the Court of Shri Narottam Kaushal, Ld. Principal Judge, Family Court (Saket), New Delhi) is not adjudicated by the Trial Court or she remarries. The permission to stay in the above premises shall be subject to the final decision in the matrimonial case.

ii) Defendant No.1 shall be permitted to shift into the alternate premises on or before 22nd March, 2018.

iii) Defendant No.1 undertakes to hand over vacant and peaceful possession of the suit property to the Plaintiff, on or before 22nd March, 2018, after moving her belongings to the alternate premises. Defendant No.1 shall not alienate or part with possession of the said alternate premises and the same shall be used for her personal residence alone.

iv) The providing of the premises by Defendant No.2 is in addition to the maintenance which has been directed to be paid to her by the Trial Court.

v) Defendant No.1 shall not claim any right, title or interest in the suit property after shifting to the alternate premises. The Respondents herein, shall not interfere with her enjoyment of the alternate premises.

5. The Respondents herein submit that the alternate premises belongs to the father of Defendant No.2 who is also the husband of the Plaintiff. The Plaintiff who is present in Court submits that she has no objection with this arrangement and that she has permission from her husband to let the Defendant no.1 stay in the alternate premises. It is submitted that on the ground floor of the alternate premises, the brother of Defendant No. 2 resides. He is married to the sister of Defendant No.1. Thus, Defendant No.1 is also comfortable in moving to the alternate premises on the First Floor.

6. In view of the settlement arrived at between the parties, it is directed that the impugned decree of eviction is modified in the above terms as settled.

7. There are other cases pending between the parties. It is prayed that the matter be listed before the Delhi High Court Mediation and Conciliation Centre. Let the parties appear before the Mediation Centre on 19th March, 2018 at 3:00 p.m.

8. List for reporting compliance on 23rd March, 2018.

Parties are directed to append their signatures below towards acceptance of the settlement terms.

9. Appeal is disposed of as settled along with all pending applications.”

2. The Appellant had to therefore shift to the alternate premises and hand over possession to Respondent no.1. Subsequently, order dated 23rd March, 2018 and 4th April, 2018 were passed. Vide order dated 4th April, 2018, a Local Commissioner was appointed to enable the shifting of the Appellant to the alternate premises. Today the Appellant and Respondent No.2 are present.

3. The report of the Local Commissioner Ms. Shiba Batra has been received. As per the said report, the Appellant has shifted from the suit property to the alternate premises. The keys of the suit property have been handed over to the Respondent No.1. The Appellant has also taken the vacant peaceful possession of the alternate premises. She is present in Court and submits that electricity has also been restored in the alternate premises. She submits that Mr. Shambhu, second son of Respondent No.1 is creating hindrance. It is directed that the local SHO, PS Sangam Vihar shall ensure that no hindrance is created in the Appellant's enjoyment of the alternate premises including making available access to the water tank etc. The local SHO shall also ensure that there is no disturbance created in the Appellants peaceful occupation of the alternate premises. Copy of this order along with order dated 16th March, 2018 be sent to the SHO, PS Sangam Vihar for compliance.

4. Appeal is already disposed of. No further orders are called for.

PRATHIBA M. SINGH, J.

APRIL 13, 2018/dk