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IN THE HIGH COURT OF DELHI AT NEW DELHI

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RFA 919/2016

DELHI DEVELOPMENT AUTHORITY

..... Appellant

Through: Mr. Sanjeev Sagar, Advocate.

versus

SURESH & ANR

..... Respondents

Through: Mr. Rajiv K. Nanda, Advocate for R-1 (Mobile No.9810184094).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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04.09.2018

1. While disposing of the subject suit trial court issued the following directions and gave the reliefs as under:-

“Relief

(34) In view of my above discussion, the various issues are accordingly disposed off and the plaintiff is held entitled to Declaration as asked for in the plaint in terms of the findings as aforesaid.”

FINAL CONCLUSIONS:

(35) In view of my findings on the various issues, I hereby Declare the Cancellation of allotment of suit property i.e. M-85, Saket Residential Scheme, New Delhi as published in the Hindustan Times dated 02.10.1993, to be null and void and non-est in law, which is without prejudice to the rights of the defendant no.2 DDA to reconstruct the main file within a period of **Six Months** from today and proceed in accordance with law thereafter and nothing stated herein above shall be construed to be an opinion on the aspect of title of the parties before this Court, the main file not being available.

(36) The question of rights of the defendant no. 1 in the property in question and the subsequent rights of the plaintiff is **left open to be decided by the competent authority/officer of the DDA after reconstruction of the main file.** Till such time, the parties shall maintain status-quo in respect of the possession of the property and no third party interest in the same shall be created.”

2. Learned counsel for the respondent no. 1/plaintiff states that

respondent no. 1/plaintiff does not claim any rights in terms of paragraph 34 of the impugned judgment and it is agreed that the only operative portion or a decree passed is in the terms of paragraphs 35 and 36 of the impugned judgment.

3. Once that is so, and paragraphs 35 and 36 clearly state that the appellant/ Delhi Development Authority (DDA) has only to re-construct the file and as all rights are left open, hence there is no prejudice by the aforesaid directions to DDA.

4. Accordingly, counsel for the appellant in view of the aforesaid discussion states that appellant will act in terms of the directions contained in paragraphs 35 and 36 of the judgment and since paragraph 34 is not taken as final or such a decree passed in favour of the respondent no.1/plaintiff as per para 34, accordingly all rights are left open to be decided by the competent officer of the appellant/DDA.

5. Appellant will now act in terms of the directions contained in paragraphs 35 and 36 of the impugned judgment taking the period of six months as starting from today.

6. In case the appellant does not comply with the directions as contained in the impugned judgment within six months, the concerned officer(s) will be responsible and with respect to which a status report would have to be filed by the appellant in this court.

7. The appeal is accordingly disposed of.

VALMIKI J. MEHTA, J

SEPTEMBER 04, 2018/sAK