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

+ **CS(OS) 414/2017**

MS. ANJALI GUPTA

..... Plaintiff

Through

Mr.Saurav Kirpal, Mr.Yudhister,
Mr.Akhil Sachar and Ms.Sunanda,
Advs.

versus

MR. TULSI SINGH RAJPUT AND ANOTHER..... Defendants

Through

Defendant is ex parte

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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17.09.2018

1. Present suit is filed seeking decree of possession and ejectment of property bearing No.34, Sunder Nagar, New Delhi-110003. A Decree of mesne profit/damages is also sought for.
2. On 5.12.2017 this court recorded that defendant No.2 was served on 28.10.2017. On 21.2.2018 Joint Registrar noted that defendant No.1 is served on 12.1.2018 through his wife. On 17.5.2018 Joint Registrar noted that none has appeared for defendants nor has any written statement been filed. On 6.7.2018 this court proceeded with the defendants as ex parte and their right to file written statement was closed. Plaintiff was directed to file evidence by way of affidavit . Plaintiff has filed the affidavit of PW-1 Shri Rajiv Gupta.
3. As per the plaint the said suit property was bought by late Shri Ram Prakash Gupta vide Perpetual Sub-Lease Deed dated 29.3.1957. Late Shri

Ram Prakash Gupta bequeathed the suit property vide Registered Will dated 12.1.1988 in favour of his wife Late Smt.Prem Bala. In case Smt.Prem Bala pre-deceases Shri Ram Prakash Gupta the property was to go equally to his two daughters i.e. plaintiff and late Ms.Arti Gupta on death of Shri Ram Prakash Gupta. Similarly, Smt.Prem bala also simultaneously executed Registered Will dated 12.1.1988 wherein Smt.Prem Bala also bequeathed all her assets,movables and immovables in favour of Late Shri Ram Prakash Gupta. It was also provided that in case Shri Ram Prakash Gupta pre-deceases her the property would go equally to the two daughters. A Registered Conveyance Deed dated 4.1.2000 was executed in favour of Late Shri Ram Prakash Gupta by the President of India. Shri Ram Prakash Gupta died on 29.11.2005. Smt.Prem Bala died on 29.10.2007. Ms.Arti Gupta who had no children also passed away on 2.9.2016. Hence, it is pleaded that the plaintiff became the sole and absolute owner of the suit property.

4. The suit has been filed through Power of Attorney Holder and first cousin of the plaintiff. It is pleaded that during her lifetime Ms.Arti Gupta decided to induct a tenant in the suit property for generating rental income. Defendant No.1 claiming himself to be the Chairman-cum-Managing Director of defendant No.2 approached Ms.Arti Gupta in November 2014 to take the suit property on rent for a period of two years at a monthly rent of Rs.2 lakh per month with a security deposit of Rs.4 lakh. However, before documentation could be executed in December 2014 the defendants forcibly entered the suit property. No formal lease was signed or executed between the parties.

5. As Ms.Arti Gupta protested against the acts of the defendant and insisted that the defendant should vacate the suit property. The defendant

transferred a sum of Rs.4 lakhs on 18.11.2014 to the bank account of Ms.Arati Gupta. Thereafter a sum of Rs.6 lakhs was transferred on 9.12.2015. Letter dated 10.7.2017 was sent to the defendant to vacate the suit property.

6. In the affidavit by way of evidence PW-1 Shri Rajiv Gupta has reiterated the above contentions in the plaint.

7. It is clear from the above that the plaintiff is the owner of the suit property in view of the conveyance deed executed by the President of India in favour of Shri Ram Prakash Gupta dated 4.1.2000 (Ex.PW1/5) and also the Will of Shri Ram Prakash Gupta dated 12.1.1988 (Ex.PW1/3) and of Smt.Prem Bala also dated 12.1.1988 (Ex.PW1/4). The defendants have no right, title or interest in the suit property. They have entered possession as tenants and have agreed to pay a rent of Rs.2 lakh per month. They are in default of the rent since May, 2015. Notice dated 10.07.2017 has been issued to the defendants terminating the alleged month to month tenancy.

8. Accordingly the defendants have no right to continue in the property. A decree of possession is passed in favour of the plaintiff and against the defendants. As far as mesne profit is concerned the defendants have occupied the suit property in December 2014 and have paid rent of Rs.10 lakhs. Hence, rent for five months @ Rs.2 lakh per month has been paid. Rent has not been paid since May 2015.

9. PW-1 in his affidavit by way of evidence has stated that the premises of this nature will fetch a rent of Rs.4 lakh per month. However, no document has been placed on record to show the prevailing rent in the locality. I accordingly hold that the prevailing rent in the locality is Rs.2 lakh per month. Accordingly, plaintiff would also be entitled to unpaid rent/mesne profit/damages @ Rs.2 lakhs per month w.e.f. May 2015 till the

date decree is executed. Decree is passed in favour of the plaintiff accordingly. Plaintiff shall also be entitled to costs. Suit stands disposed of. All pending applications, if any, also stand disposed of.

JAYANT NATH, J.

SEPTEMBER 17, 2018

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