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

+ CS(OS) 665/2019, IA No.18209/2019(u/O.XXXIX R.1&2 CPC),
IA No.18210/2019(exemption), IA No.18211/2019(u/S.149 CPC)
RADHEY SHYAM SHARMA Plaintiff

Through: Mr. Raman Kapur, Sr. Adv. with
Mr. Gaurav Sharma, Adv.

versus

AMIT KUMAR & ORS. Defendants

Through: none.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.12.2019

1. The plaintiff has instituted this suit, (i) for declaration as void and illegal of that the order dated 13th May, 2019 of the Court of the Additional Rent Controller of eviction of the plaintiff from an immovable property; (ii) for declaration that the defendants have no right, title or ownership in the said property; and, (iii) for permanent injunction to restrain the defendants from taking possession of the property in execution of the eviction order.
2. The plaintiff, in paragraph 4 of the plaint, has disclosed having filed a Civil Revision being RC Rev.No.624/2019 in this Court against the eviction order and having withdrawn the same without prejudice to rights and contentions and reserving his rights.
3. However a perusal of page 160 of Part IIIA File, being the said order in the R.C. Rev. No.624/2019, shows that the plaintiff, before this Court, in the said Revision Petition, on 21st November, 2019, also stated that he would hand over the peaceful vacant possession of the

property to the respondents therein and the defendants herein, within four weeks therefrom and reserving his rights to take appropriate proceedings in accordance with law for declaration of his title as well as seeking restoration of possession.

4. The plaintiff has concealed from the plaintiff, the factum of having made such a statement before the Rent Control Revision Court on 21st November, 2019. On the contrary, in this suit, relief of permanent injunction as aforesaid and of *ex parte* ad-interim relief of stay of dispossession in execution of eviction order is sought. The attempt clearly was, to, conceal the settlement made before another bench of this Court and nullify the said statement by obtaining an *ex parte* order from this bench. Imbedding a copy of the order at 160th page of documents file running into 266 pages is merely paying lip service to disclosure as a Court having tens of matters listed before it is unlikely to read each and every page before admitting / entertaining the suit. The Court relies on counsels to make complete disclosure. Such a sharp practice by the plaintiff disentitles the plaintiff to invoke the jurisdiction of this Court and the suit is liable to be dismissed forthwith for the said reason only.

5. However considering that Mr. Gaurav Sharma, Advocate who has filed this suit, is the son of the plaintiff, the request of the senior counsel for the plaintiff, for withdrawal of this suit with liberty to apply for amendment in the previously instituted suit, plaint whereof is at page 221 of Part III File, is acceded to, but subject to the conditions that the plaintiff, in terms of statement before the Rent Control Revision Court on 21st November, 2019, hands over possession to the respondents/defendants.

6. The senior counsel for the plaintiff states that further two days' time be given for delivering possession.
7. Mr. Gaurav Sharma, Advocate undertakes to this Court that possession shall be delivered to the respondents/defendants on Monday i.e. 23rd December, 2019 in terms of the order dated 21st November, 2019 in the Rent Control Revision Petition.
8. The undertaking of Mr. Gaurav Sharma, Advocate, who is expected to know of consequences of breach of undertaking given to the Court, is accepted and he is ordered to be bound thereby.
9. The suit is dismissed as withdrawn with liberty to apply for amendment in the pending suit as aforesaid.
10. A copy of this order be served on the defendants.

RAJIV SAHAI ENDLAW, J

DECEMBER 20, 2019

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