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

+ **CS(OS) 81/2019**

SMT. KAMLESH MEHTA Plaintiff

Through: Mr. Rohan Dewan, Advocate (M-9652562744)

versus

SHRI SHYAM SUNDER MEHTA Defendant

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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06.02.2019

I.A. 1844/2019 (for exemption)

1. This is an application seeking exemption from filing originals of annexures and better copies of certain dim annexures. Recording the Plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed. I.A. is disposed of.

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2. Let the plaint be registered as a suit.

3. Issue summons to the Defendant through all modes upon filing of Process Fee including through email. A complete set of the paperbook be attached with the summons so issued to the Defendant.

4. The summons to the Defendant shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendant shall also file an

affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

5. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendant, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines prescribed under the Delhi High Court (Original Side) Rules, 2018.

6. List before the Joint Registrar for marking of exhibits on 9th May, 2019. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

7. List before Court on 11th April, 2019.

I.A. 1843/2019 (u/O XXXIX Rule 1 and 2 CPC)

8. The present suit for permanent and mandatory injunction has been filed by Smt. Kamlesh Mehta against her brother – Sh. Shyam Sunder Mehta. The parties are the children of Late Sh. Dayal Dass Mehta and Smt. Raj Rani Mehta. The case of the Plaintiff is that she is in occupation of the Ground Floor of property bearing no. 1/47, West Punjabi Bagh, New Delhi (*hereinafter 'suit property'*) and the Defendant has been in possession of the First Floor and Second Floor of the said suit property. She avers that as per the Will of her mother dated 13th December, 2005, the Ground Floor of the suit property has been bequeathed in her favour jointly with her sister – who has since passed away and accordingly she is the owner and is also in occupation of the Ground Floor.

9. The reason for filing the present suit is that the Defendant, along with

his daughter, have made repeated attempts to dispossess the Plaintiff and cause harassment to the Plaintiff in order to take control of the Ground Floor of the suit property. She states that she was forced to approach the police twice in view of the conduct of the Defendant and his family on two occasions. It is stated that the Plaintiff does not keep good health and her medical records from Maharaja Agrasen Hospital have been placed on record. It is submitted that the third sibling i.e. the Plaintiff's sister has also recently passed away and hence she has no one to approach for help in the family. In recent times, two property dealers have also been visiting the suit property and therefore, the Plaintiff apprehends that the Defendant may transfer the suit property to some third party.

10. In the facts and circumstances narrated above, a *prima facie* case has been made out for grant of injunction. Till the next date, the Defendant is restrained from selling, alienating or create any third party interest in the suit property, and from disturbing the possession of the Plaintiff in the Ground Floor of the suit property.

12. Compliance of Order XXXIX Rule 3 be done within three working days. Reply to the application be filed within 4 weeks. Rejoinder, if any, within 4 weeks, thereafter.

13. The Defendant is directed to be present in person on the next date of hearing.

14. List on 11th April, 2019.

15. Order *dasti*.

PRATHIBA M. SINGH, J

FEBRUARY 06, 2019

Rahul