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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 30/2019**

M/S S & P INFRASTRUCTURE DEVELOPERS (P) LTD. Appellant

Through: Ms. Anusuya Salwan, Advocate with
Ms. Nikita Salwan, Advocate.
Mr. Sanjeev Gaur, Director of the
Appellant Company.

versus

USHA DEVI & ORS. Respondents

Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
% **13.02.2019**

CM APPL. 6662 /2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.

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2. Since the Respondents/Defendants have already been set ex parte in the suit, notice in the present appeal is dispensed with.

3. This appeal is directed against an order dated 17th January 2019 passed by the learned Single Judge in IA No. 672/2019 in CS (COMM) 1083 of 2018. The said application was necessitated by the difficulty that appears to have arisen as a result of an erroneous description of the property in paras 7 and 8

of IA No. 11127/2015 in which an injunction *qua* the said property was sought. The property was described as B-2 Vasant Kunj, New Delhi when, in fact, it should have read as Plot No. 2 Block B-1, Vasant Kunj, New Delhi.

4. As it transpired, an injunction was indeed granted by the learned Single Judge on 22nd January 2016 in the said IA No. 11127/2015 to the effect that “defendant Nos. 1 and 2 are restrained from dealing with properties mentioned in paras 7 and 8 of this application, till further orders”. Based on the above description, another order was passed on 19th December 2018 in IA No. 16726/2018 restraining Sub-Registrar from registering any sale deed with respect to “property bearing B-2 Vasant Kunj, New Delhi-110070 till further orders.”

5. It is only later that the Appellant realised that the property had been wrongly described as B-2, Vasant Kunj, New Delhi when, in fact, there was no such property and that the correct address was Plot No. 2, Block B-1, Vasant Kunj, New Delhi.

6. Learned counsel for the Appellant has drawn the attention of the Court to a public notice issued by the Appellant on 29th April 2016 in ‘The Statesman’ of that date where the details of the property has been correctly given as Block B-1, Plot No.2, Village Nangal Dewat, Rangpuri Residential Scheme, Vasant Kunj, New Delhi.

7. In the above circumstances, the Appellant filed IA 672 of 2019 under Section 151 CPC seeking modification of the property details mentioned in

the order dated 19th December 2018. The application was rejected after the learned Single Judge for the reason that the property of the said description, i.e. Plot No. 2, Block B-1 Vasant Kunj, New Delhi was not “mentioned either in the plaint or in any previous interlocutory application.” The impugned order also noted that “no injunction in the past has been granted with regard to this property even though the present suit has been pending for the last three years.”

8. Ms. Anusuya Salwan, learned counsel for the Appellant/Plaintiff states that there was a *bona fide* error in giving the correct details of the property in respect of which the injunction was originally passed by the learned Single Judge on 22nd February 2016 in IA No. 11127/2015. She states, on instructions of Mr. Sanjeev Gaur, Director of the Appellant who is present in Court, that on seeing the records in office of the concerned Sub-Registrar, it was confirmed that the aforementioned property bearing Plot No. 2 Block B-1, Vasant Kunj, New Delhi has not changed hands since the date of the injunction i.e. 22nd February 2016.

9. The Court also notes that the Defendants have already been set ex-parte in the suit.

10. In the circumstances, the Court accepts the plea of the Appellant/Plaintiff and clarifies that the injunction issued on 22nd February 2016 by the learned Single Judge should be understood as being *qua* the property at Plot No. 2 Block B-1, Vasant Kunj, New Delhi. The order dated 19th December 2018 of the learned Single Judge should also be understood as the Sub-Registrar being

restrained from registering any sale deed with respect to the property at Plot No. 2, Block No. B-1, Vasant Kunj, New Delhi.

11. The appeal is disposed of in above terms.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 13, 2019

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