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

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Judgment delivered on: 13.03.2020.

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CM(M) 319/2020

SUDHIR GIRI

..... Petitioner

versus

RAJIV GIROTRA & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Manu Nayar with Mr. Chetanya Kakkar, Ms. Meenakshi Bhatia, Ms. Samartika Pathak, Advocates.

For the Respondent:

Mr. R.K. Kashyap with Mr. Imran Khan, Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.9390/2020 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 319/2020

1. Petitioner impugns order dated 19.02.2020, whereby, an early hearing application of the petitioner filed before the Trial Court was dismissed.
2. Petitioner is the owner of the first floor of property No.6/13, West Patel Nagar, New Delhi and respondents are the owners of the third floor with roof rights of the property No.6/13, West Patel Nagar, New Delhi.
3. Subject Suit has been filed by the petitioner contending that the

respondents have installed steel and iron gates on the staircase and the terrace of the property. A decree of injunction is sought thereby restraining the respondents from preventing access of the petitioner/plaintiff to the terrace of the third floor for the purposes of repair/service of the water tank as well as the DTH connection installed on the terrace.

4. Further, it is contended that the lift which services the property has been disconnected and the lift does not stop on the first floor and only stops on the third floor.

5. With regard to the gates installed on the staircase, it is contended by the learned counsel for the respondents that the gates have been installed for security purposes between the second and the third floor and no iron or steel gate has been installed by the respondents at the staircase leading up to the second floor.

6. It is also contended by learned counsel for the respondent that the access of the lift to the first floor was stopped because the petitioner had not paid the repair and regular running and maintenance charges for the lift.

7. It is further submitted that the occupant of the second floor has decided not to use the lift and contribute for the lift maintenance and running charges. Learned counsel submits that in case petitioner, his family and his visitors wish to use the lift, he must clear the arrears and pay for the maintenance and running cost of the lift.

8. With the intervention of the learned counsel for the parties, parties have settled their disputes as under:

- (i) in case petitioner or his technician needs to access the terrace floor for inspection, repair or service of the water tanks and the supply line or the DTH connection, petitioner shall inform the respondent, who undertakes to permit the access as soon as possible but not later than 12 hours of the intimation.
- (ii) Respondent undertakes that he shall not cause any hindrance to the water supply line or the DTH connection of the petitioner.
- (iii) Petitioner undertakes to pay 50% of the AMC charges of the lift for the year 2020 and thereafter and 50% of the regular maintenance and running charges of the lift.
- (iv) petitioner undertakes to pay the proportionate electricity charges for the use of the electricity supply/lights to the parking area.
- (v) For the past electricity charges for the usage of the electricity to the parking area, petitioner undertakes to pay a sum of Rs.5,000/- within two weeks. Petitioner also undertakes to pay, within two weeks, a further sum of Rs.10,000/- towards all past claims of the respondent towards repair, maintenance and running cost of the lift.
- (vi) Respondent undertakes that respondent shall have the services of the lift restored to the first floor within a period of 5 days from today.
- (vii) Petitioner undertakes that he hereby withdraws his objections to the installation of the steel gate in the stair case beyond the second floor. This is without prejudice to his objections with regard to the alleged unauthorised construction on the terrace of the third floor for which

he claims to have filed a Writ Petition.

(viii) Petitioner also withdraws his application under Order 39 Rule 2A CPC filed before the Trial Court.

(ix) It is agreed that the Suit be disposed of in the above terms.

9. Petitioner and learned counsel for the Respondent on behalf of the respondent undertake to abide by the above terms and conditions.

10. The undertakings are accepted.

11. The Suit is decreed in terms of the settlement recorded above. The application filed by the petitioner under Order 39 Rule 2A CPC of the file of the trial court is dismissed as withdrawn.

12. The Petition is also disposed of in the above terms.

13. Copy of the order be forwarded to the Trial Court for compliance and appropriate orders.

14. Order *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 13, 2020
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