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

% Judgment delivered on: 24th January, 2022

+ **FAO 210/2021 & CM. APPL. 30419/2021**

MRS. VEENA BHOJWANI AND ANR. Appellant

Versus

MRS. ANJU JANI Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Jatin Mongia and Mr. Akshit Mohan, Advocates.

For the Respondents: Mr. D.V. Khatri, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. The hearing was conducted through video conferencing.
2. Appellants impugn order dated 23.02.2021 whereby the application filed by respondent (plaintiff) under Order 39 Rule 1 & 2 has been allowed and the appellants have been directed not to interfere with the peaceful possession of the respondent in the subject property and also not to create any third party rights in the suit property till the disposal of the suit.



3. Learned counsel for the appellants submits that admittedly respondent was not in possession of the subject property as is evident from an application filed by the respondent before the Trial Court dated 12.07.2019 wherein it is specifically mentioned that respondent was evicted from the suit property pursuant to an order passed by the District Magistrate under the Maintenance & Welfare of Parents and Senior Citizens Act and possession was handed over on 04.07.2019.

4. Learned counsel for respondent concedes that respondent is not in possession of the subject property.

5. Learned counsel for the appellants undertakes that appellants shall maintain status quo with regard to the ground floor of the subject property and shall not create any third party interest in the subject property till the disposal of the suit.

6. The undertaking is accepted.

7. Learned counsel for the parties submits that since respondent is not in possession of the subject property, the impugned order dated 23.02.2021 be modified to the limited extent that it directs appellants not to interfere with the peaceful possession of the respondent in the subject property.

8. Accordingly, this appeal is disposed of and impugned order dated 23.02.2021 is modified to the limited extent that it restrains the



appellant from interfering in the peaceful possession of the respondent.

9. However, keeping in view of the undertaking given by the appellants, appellants shall not create any third party rights in the subject property till the disposal of the suit.

10. It is further clarified that the factual observations and findings returned by the trial court in the impugned order shall be treated as prima facie findings and shall not be relied on at the time of final disposal of the suit and shall have no bearing on the merit of the case of either party.

11. The appeal is disposed of in the above terms.

12. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through e-mail by the Court Master.

JANUARY 24, 2022
NA

SANJEEV SACHDEVA, J