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

% Judgment delivered on: 25.01.2023

+ CM(M) 120/2023

BRIJ RANI

..... Petitioner

versus

SHIV KUMAR YADAV

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Lal Singh Thakuar, Adv.

For the Respondent : None

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 3816/2023 (Exemption)

1. This is an application seeking exemption from filing certified copies of the annexures.
2. Exemption is allowed, subject to all just exceptions.
3. However, the petitioner is directed to obtain and file the certified copies of the aforesaid documents within eight weeks from today.
4. Application stand disposed of.

CM(M) 120/2023 & CM APPL. 3817/2023-STAY

5. Petitioner is aggrieved by the order dated 13.01.2023 in CS SCJ 44/23 titled “Brij Rani Vs. Shiv Kumar Yadav” whereby the learned Trial Court even after hearing the petitioner on the urgency involved and the apprehension of petitioner of being dispossessed of the subject suit property by the respondent/defendant, only mere notice for 07.02.2023 was issued and no ad-interim exparte injunction protecting the

possession of the petitioner was passed.

6. Learned counsel for the petitioner submits that the petitioner is not an ordinary resident of Delhi and resides in Chandigarh and it would become very difficult for her to protect her possession over the said suit property, in case immediate and urgent orders and directions are not passed protecting her possession of the suit property.

7. Learned counsel submits that once the possession is taken over by the respondent/defendant forcibly, the suit would itself become infructuous, inasmuch, the suit is for permanent injunction.

8. In view of the aforesaid urgency shown by the petitioner, the notices to be issued to the respondent is dispensed with.

9. In view of the aforesaid, the learned Trial Court is directed to take up the application under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908 and adjudicate upon it so far the exparte ad-interim injunction is concerned in a more sensitive manner and being aware of possession and status of the petitioner in that, the petitioner is a resident of Chandigarh and not Delhi.

10. In view of the aforesaid, learned Trial Court will take up the application under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908 and hear the same today itself i.e. 25.01.2023 at 02:30 pm.

11. The petition is disposed of with no order as to costs.

12. A copy of this order be given dasti under the signatures of Court Master.

TUSHAR RAO GEDELA, J .

JANUARY 25, 2023/ms