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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 12.09.2023

+ CM(M) 921/2022 & CM APPL. 39387/2022

DELHI DEVELOPMENT AUTHORITY & ORS. Petitioners

Through: Mr. Kunal Lakra, Advocate for Mr.
Ashim Vachher, Standing Counsel.

versus

JAMUNA DEVI

..... Respondent

Through: Mr. A.K. Sharma, Advocate.

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of Constitution of India impugns the order dated 09.05.2022 passed by the ADJ-02, North District, Rohini Courts, Delhi ('Trial Court') in CS DJ No. 753/2018. The operative portion of the impugned order reads as under:-

"It has been submitted by Ld. Counsel for the plaintiff that plaintiff had applied to DDA in June, 1997 vide applicant number 363757 for conversion of the land from lease hold to free hold but said application was rejected on the ground of non payment of misuse charges. He further submits that without prejudice to the rights and contentions of the plaintiff and defendant, plaintiff may be permitted to deposit the entire misuse charges without interest in the Court in the form of interest bearing FDR from any Nationalise Bank within seven days from today and DDA may be asked to reconsider its application for its conversion from lease hold to free hold.

This appears to be a fair proposal for fair consideration of the request of the plaintiff as plaintiff is engaged in running hospital which is otherwise very important for the society considering the



availability of medical facilities.

Hence, upon deposit of misuse charges i.e. Rs.66,68,915/- as demanded by the DDA in the Court in the form of interest bearing FDR from Nationalise Bank, DDA shall reconsider the application of the plaintiff by which plaintiff had requested for regularization and for conversion of the property from lease hold to free hold vide above mentioned application. With the aforesaid deposit of the amount in the Court, plaintiff be relegated to her position as existing in June, 1997 qua the lease property which means lease has to be restored.

Needless to say that this interim order is subject to outcome of present suit.

Both plaintiff and defendant, however, are at liberty to negotiate the misuse charges and conversion charges independently with intent to bring out an end to the present litigation out of the Court.”

(Emphasis Supplied)

1.1. The Petitioner is the defendant and the Respondent is the plaintiff in the civil suit. The civil suit has been filed by the plaintiff for declaration and permanent injunction against the defendants with respect to plot no. 711, Mukherjee Nagar, Delhi (‘subject property’).

2. The learned counsel for the Respondent on instructions states that that the Respondent has no objection if the prayer sought by the Petitioner in this petition is allowed and the impugned order dated 09.05.2022 is set aside.

2.1. He states that Respondent herein had duly deposited an amount of Rs. 66,68,915/- with the Trial Court in the form of an interest-bearing FDR from a nationalised bank. He states that in view of the challenge laid by the Petitioner herein, the Respondent deems it prudent to pursue the main suit and not pursue this interim order dated 09.05.2022. He states that he may be granted permission to withdraw the said amount along with interest earned thereon.

3. In reply, learned counsel for the Petitioners states that he has no



objection to the course proposed by the Respondent and he has no objection if a direction is issued to the Trial Court to release the amount deposited by the Respondent herein along with interest so long as the interim order is vacated.

4. Accordingly, with the consent of the parties the order dated 09.05.2022 is set aside and the Trial Court is requested to expeditiously release the amount of Rs. 66,68,915/- deposited by the Respondent in pursuance of the order dated 09.05.2022 along with the interest accrued thereon, preferably within a period of ten (10) days from today.

5. Needless to state that with the setting aside of the interim order, the rights and contentions of the parties in the suit will be decided by the Trial Court on its own merits and in accordance with law.

6. With the aforesaid direction, the present petition stands disposed of.

7. The digitally signed copy of this order, duly uploaded on the official website or the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

8. Copy of the order be given *dasti* under the signature of Court Master.

MANMEET PRITAM SINGH ARORA
(JUDGE)

SEPTEMBER 12, 2023/mr/aa

[Click here to check corrigendum, if any](#)