



\$~68

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

+ **CM(M) 2001/2024**

RAVI KUMAR SAINI & ANR.

..... Petitioners

Through: Mr. Raghev Saluja and Ms. Tanisha
Verma, Advs.

versus

RAVI PARKASH SAINI

..... Respondent

Through: Mr. Divya Kant Lahoti and Mr.
Kartik Lahoti, Advs.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **29.02.2024**

CM APPL. 12631/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 2001/2024, CM APPL. 12630/2024—stay

3. The present petition under Article 227 of the Constitution of India has been filed impugning the order dated 23.02.2024 passed by the learned ADJ-06 (South), Saket Courts, Delhi, in CS DJ No.123/2024 titled as “*Ravi Prakash Saini vs. Ravi Kumar Saini & Anr.*”, whereby the learned Trial Court passed three ex-parte ad-interim orders. The petitioner no.1 herein is the defendant before the learned Trial Court.
4. Learned counsel for the petitioners submit that however, petitioner now is mainly aggrieved with the order passed by the learned Trial Court with respect to the application filed under Order XXXVIII Rule 5 of Civil Procedure Code (“CPC”) whereby the learned Trial Court has appointed and directed the Local Commissioner to attach the property bearing no. 347,



Sapera Wali Gali, Alii Village, Sarita Vihar, New Delhi – 110076 by giving a week's advance notice to the owners/builders/occupiers of the property as the case may be.

5. It is submitted that the said property is the dwelling house of the petitioner which is not liable to be attached under any circumstances. Moreso, learned Trial Court has further empowered the Local Commissioner to break open the locks and or remove obstructions, if any, while attaching the subject property and has also provided the police protection.

6. The learned counsel for the respondent submits that the applications moved on behalf of the plaintiff under Order XXXVIII Rule 5 CPC, Order XXXIX Rule 1 and 2 CPC and Order XXXIX Rule 7 CPC are listed before the learned Trial Court on 02.03.2024 and petitioner has the available remedy to make these submissions before the learned Trial Court.

7. Learned counsel submits even otherwise no prejudice is going to be caused to the petitioners herein as the Local Commissioner has to first give a notice of a week's time before attaching the property as mentioned in the order, therefore, there is no urgency in the matter as is being made out by the petitioners.

8. The learned counsel for the petitioners now seeks liberty to address all the submissions which have been stated in this petition before the learned Trial Court on 02.03.2024 and submits his interests and rights be protected with respect to subject property till disposal of the applications before the learned Trial Court.

9. In due consideration of the above submissions, till the disposal of the application under Order XXXVIII Rule 5 CPC, the attachment of the property bearing no. 347, Sapera Wali Gali, Alii Village, Sarita Vihar, New



Delhi – 110076 as mentioned in the impugned order is stayed. However, the parties are further directed to maintain *status quo* with respect to the aforesaid property as already ordered by the learned Trial Court. The learned Trial Court to expeditiously decide the above three applications without affording any adjournment to either of the parties.

10. With above observations, the petition along with pending applications stands disposed of.

SHALINDER KAUR, J.

FEBRUARY 29, 2024/SDS/K