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

+ **CS(OS) 165/2022, I.A. 2144/2024 & I.A. 3674/2024**

SHRI ATUL CHANDER PAUL & ANR.Plaintiffs

Through: Mr. Ashim Vachher, Mr. Vaibhav Dabas, Mr. Kunal Lakra and Mr. Vinayak Uniyal, Advocates

versus

SMT. SATISH PAUL & ORS.Defendants

Through: Mr. Shivam Goel, Ms. Ramya S. Goel and Ms. Sanya Sharma, Advocates for D-2 and D-5
Mr. Sachin Chaudhary, Advocates for D-3 and D-4
Mr. Sanjeev Mahajan, Mr. Harmeet Singh Bhasin, Mr. Rishabh Varshney and Mr. Raghav Agarwal, Advocates for D-6

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER
14.11.2024

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1. This order is in continuation of the order dated 12.11.2024.
2. Learned counsel for the plaintiffs states on instructions from plaintiff nos. 1 and 2 that the plaintiffs seek to unconditionally withdraw the present suit. He states that in view of the Order dated 23.03.2023 passed by Coordinate Bench of this Court in EX.P. 50/2021 and the judgment dated 14.09.2023 passed by the Division Bench of this Court in EFA(OS) 11/2023, the plaintiffs acknowledge that they have no right, title or interest in the suit property and therefore, they seek permission to unconditionally



withdraw the present suit.

3. He states that in addition, plaintiff nos. 1 and 2 undertake to this Court that they will handover vacant and peaceful possession of the suit property to the defendants on or before 28.02.2025. He states that all dues i.e., electricity, water, etc, shall be cleared up-to the date of handing over of the vacant possession. He states that in view of the said undertakings given to this Court, the direction issued by this Court with respect to the mesne profits be waived.

4. In reply, learned counsels for the defendants state that the keys of the suit property may be deposited with the registry in EX.P. 50/2021 as the suit property is a subject matter of the said execution inter-se between the defendants. They further state that they have no objection to the oral prayers made by the plaintiffs being allowed subject to strict compliance.

5. This Court has considered the submissions advanced by the learned counsels for the parties. The undertakings of the plaintiffs are hereby accepted. This Court has been informed that plaintiff no. 2 is holding a power of attorney on behalf of plaintiff no. 1. Plaintiff no. 2 is directed to file an affidavit of undertaking in terms recorded hereinabove within a period of two (2) weeks on her behalf as well as on behalf of plaintiff no. 1.

6. In view of the aforesaid submission, the direction of payment of mesne profits is hereby suspended subject to the plaintiffs handing over peaceful and vacant possession on or before **28.02.2025**.

7. It is, however, directed that if there is any default by the plaintiffs in handing over peaceful and vacant possession then the plaintiffs will be liable to pay mesne profits w.e.f. 23.03.2023 until the date of handing over of vacant physical possession.



8. The registry is directed to accept the deposit of keys from the plaintiff in EX.P. 50/2021. A copy of this order be placed on record of the said execution petition.
9. The plaintiff will duly intimate the defendants prior to the deposit of all the keys. The parties agree that the plaintiff will after clearing out the suit property offer an inspection to defendant nos. 2 and 6 before locking up the premises and depositing the keys in Court.
10. The undertaking of the plaintiffs is accepted in the above terms and they are bound down to the same. The suit is dismissed as withdrawn without any liberty reserved. Pending applications stands disposed of.
11. Interim orders, if any, stand vacated.
12. It is, however, clarified that in case of any default, the decree of mesne profits shall automatically follow against the plaintiffs and the defendant will be entitled to enforce the decree of mesne profits.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 14, 2024/msh/AKT

Click here to check corrigendum, if any