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

+ **FAO(OS) 3/2025**

MEHR NIGAR

.....Appellant

Through: Mr. Kirti Uppal, Senior Advocate
with Mr. Salman Hashmi and
Mr. Zeeshan Hashmi, Advocates with
appellant in person.

versus

AATIKA MANZAR AND ORS

.....Respondents

Through: Mr. M.A. Niyazi, Ms. Anamika Ghai
Niyazi, Ms. Kirti Bhardwaj,
Ms. Nehmat Sethi and Mr. Arquam
Ali, Advocates for R1 and R2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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16.01.2025

CM APPL. 2698/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 2699/2025 –Delay 8 days (RF)

3. This is an application filed by the appellant seeking condonation of 8 days' delay in re-filing the appeal.
4. Taking into account the period of delay involved in the matter, we condone the delay in re-filing the appeal.
5. The application is, accordingly, disposed of.

FAO(OS) 3/2025 and CM APPL. 2697/2025 –Stay

6. The present appeal under Section 10 of the Delhi High Court Act read with Order XLIII and Sections 151 and 104 of the Code of Civil Procedure,



1908 seeks to assail the order dated 25.10.2024 passed by the learned Single Judge in CS(OS) 859/2024. The submission of learned senior counsel for the appellant/plaintiff is that, even though the appellant had made a statement before the learned Single Judge that, in the event of her unfortunate demise, the keys of the property bearing No. A-57, 2nd Floor, Nizamuddin East, New Delhi, would be deposited with the Court, the learned Single Judge proceeded to issue directions that go well beyond the statement made by the appellant. Additionally, there was no clarification that the recorded directions are interim in nature, for which purpose he draws our attention to paras 31 and 33 of the order, which reads as under:

“31. It is further clarified that upon keys of property no. A-57, 2nd floor, Nizamuddin East, Delhi, being deposited before this Court upon the unfortunate demise of the plaintiff; the said keys will be released to defendant nos. 1 and 2 by this Court.

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33. It is made clear that defendant nos. 1 and 2 shall remain at liberty to use and enjoy the remaining suit properties without any restraint except use of A-57, 2nd floor Nizamuddin East, Delhi which will governed by the aforesaid residential arrangement of the plaintiff.”

7. After some arguments, he submits that the appellant would be for the present satisfied if it were to be clarified that the directions issued by the learned Single Judge would be treated only as interim in nature and would be subject to any further orders as may be passed in the suit by the learned Single Judge.

8. Learned counsel for respondent nos. 1 and 2, who appears on advance notice, while urging that the appeal itself is not maintainable as the



directions issued in paras 31 and 33 are based on the consent given by the appellant, submits that he has no objection to this Court clarifying that the directions issued under the impugned order are only interim in nature.

9. In the light of the aforesaid, submissions of learned counsel for the parties, even though we are unable to decipher from the order as to whether the appellant had given her consent for the directions issued in paras 31 and 33, since the appellant is now only praying for a clarification that the directions issued in the impugned order and interim order, we dispose of the appeal by clarifying the impugned directions issued by the learned Single Judge will be treated only as interim directions. Further these interim directions will bind the parties only till the disposal of the interim application for stay is finally decided by the learned Single Judge, which application is stated to be still pending adjudication.

REKHA PALLI, J

SAURABH BANERJEE, J

JANUARY 16, 2025/uk