

E. No.87/16

New No.80745/16

02.07.2020

File was not taken up on 08.04.2020 in view of the order no. 159/RG/DHC/2020 dated 25.03.2020 passed by the Hon'ble High Court of Delhi and the matter was adjourned to 02.07.2020.

File is taken up today for hearing by way of video conferencing on account of lockdown due to Covid 19 in view of order bearing no. 22/DHC/2020 dated 29.06.2020 passed by the Hon'ble High Court of Delhi.

Present: None.

No one has appeared through video conferencing.

As such, matter is adjourned for purpose fixed to 29.10.2020.



(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
02.07.2020

E. No.106/16

New No.80842/16

02.07.2020

File is taken up today for hearing by way of video conferencing on account of lockdown due to Covid 19 in view of order bearing no. 22/DHC/2020 dated 29.06.2020 passed by the Hon'ble High Court of Delhi.

Present: None.

No one has appeared through video conferencing.

As such, matter is adjourned for purpose fixed to 29.10.2020.



(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
02.07.2020

E. No.589/14

New No.77946/16

02.07.2020


File was not taken up on 08.04.2020 in view of the order no. 159/RG/DHC/2020 dated 25.03.2020 passed by the Hon'ble High Court of Delhi and the matter was adjourned to 02.07.2020.

File is taken up today for hearing by way of video conferencing on account of lockdown due to Covid 19 in view of order bearing no. 22/DHC/2020 dated 29.06.2020 passed by the Hon'ble High Court of Delhi.

Present: None.

No one has appeared through video conferencing.

As such, matter is adjourned for purpose fixed to 29.10.2020.


(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
02.07.2020

Ex No.88/08

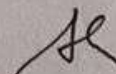
New No.1625/19

02.07.2020

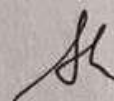
The present matter has been taken up for hearing by way of video conferencing on account of lockdown due to Covid 19.

Present : Dr. Arun Mohan, Ld. Senior Advocate with Mr. D.S. Khatri, Ld. Counsel for the decree holders
Mr. Ram Kumar, Ld. Counsel for judgment debtor no. 1
Mr. Sanjay Poddar, Ld. Senior Advocate with Ms. Pooja Kalra, Ld. Counsel for the judgment debtor no.2

1. The Ld. Senior Advocate appearing for the judgement debtor number 2 objects to taking on record the documents emailed to the court by the Decree Holders. He has submitted that the documents had to be filed by the parties along with their pleadings and have been filed belatedly.
2. The court does not agree with this submission of the learned Senior Advocate since this is an enquiry being conducted and is not a trial in a civil suit. Since it is an enquiry, the court is itself required to call for documents at any stage and even the parties can file documents at this stage which is for assisting the court in arriving at a correct conclusion in the enquiry.
3. An e-mail has been received by the Court yesterday from one Mr. Vaibhav Singh. Alongwith the e-mail, he has sent a special power of attorney executed by the decree holders Mr. Jai Singh and Mr. Virendra Singh authorizing him to take part in these proceedings on their behalf.



4. He has also e-mailed an application under Section 30, Order 11 Rules 12 & 14 and Section 151 of Code of Civil Procedure. By this application, the decree holders have prayed that the judgment debtors be directed to make general and special discovery on oath and to produce certain documents in court.
5. Arguments on the said application have been heard and record has been perused.
6. By order dated 17.06.2020, the Court had enlisted certain queries and had asked Ld. Counsels for the parties to address arguments on the same. Today is the third date of hearing since then and the Ld. Counsels for the Decree Holders have not yet addressed arguments. Instead, they have filed the aforementioned application.
7. Some of the documents of which the discovery and production has been sought by the decree holders may lose relevance depending on the view that this court takes on the enlisted queries and as such, the judgment debtors may not be required to produce them. For example, if after hearing the Ld. Counsels for the parties, the Court forms an opinion that the license deed filed by the decree holders themselves pertaining to the adjacent plot is the only document that is to be looked into for determining the mesne profits, then the Court may not require the judgment debtors to make discovery and produce documents referred to in points no. 4.2, 6 (vi), 6 (vii) and 6 (viii) of the application. Also, if after hearing the Ld. Counsel for the parties, this Court is of the view that mesne profits are to be determined only for the superstructure and that the quantum will remain unaffected even if the land on which the superstructure is built belongs to the judgment debtors, then also the Court may not require the judgment debtors to file documents referred to at point nos. 4.1 and 6 (i) of the application.

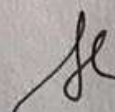


8. The queries of the court relate to the matters in controversy in the present case and will assist the Court in narrowing down the issues on which the parties will be required to lead evidence. At least some of these can be decided without leading of evidence and are therefore in the nature of preliminary issues. A decision on these questions shall quicken the conclusion of this enquiry. Part F of Chapter 1 of Volume 1 of the Delhi High Court Rules provide the guidelines for framing of issues. The following are excerpts from it:

“1. ...In most cases the main difficulty of the trial is overcome when the correct issues are framed. A few hours spent by the Court at the outset in studying and elucidating the pleading, may mean a saving of several days, if not weeks, in the later stages of the trial.”

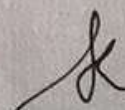
“2. Framing of issues by counsel—In some Courts, the framing of issues is left to the pleaders for the parties concerned. This practice is illegal and must cease. The Code contemplates that the Presiding Officer of the Court should himself examine the pleadings, get the points in dispute elucidated and frame issues thereon.”

9. The Hon'ble Supreme Court has directed this court to conclude the enquiry within a time frame and has also directed the parties to fully cooperate and assist this court in order to arrive at a conclusion and ordered that they will not seek adjournments.
10. Different proposed issues have been filed thrice by the Decree Holders. These were filed on 16.03.2020 and by email on 25.06.2020 and 1.07.2020 after the court asked the Id. counsels to address arguments on the enlisted queries. Issues have also not been framed as yet and without



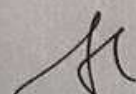
even knowing the issues in the present case, the Decree Holders have already filed their evidence by way of affidavit by sending it on email on 22.06.2020.

11. In these circumstances, since the documents mentioned in the application may lose relevance depending on the view that this court takes on the enlisted queries, this Court deems it fit to keep the aforementioned application for discovery and production of documents pending and for it to be taken up after hearing the Ld. Counsels for the parties on the Court queries dated 17.06.2020.
12. Needless to say that if any document is essential for the court to form an opinion on the enlisted queries or for either of the parties to substantiate their respective averments taken by them in their pleadings, they ought to have already filed the said relevant document.
13. The Ld. counsels for the parties are now requested to address arguments on the queries of the Court listed in order dated 17.06.2020. Part arguments are heard. At this stage, Ld. Senior Advocate appearing on behalf of the judgment debtor number 2 points out that the decree holders have not yet complied with the direction given in paragraph number 7 of order dated 17.06.2020 and have not disclosed their income from plots number 1 and 3, Block D, Jhandewalan Estate, Delhi. He submits that the decree holders are deliberately concealing the same.
14. In this context, the Ld. Senior Advocate appearing for the decree holders submits that the decree holders could not comply with the direction till now due to the limitations faced due to the Covid 19 pandemic. He requests for an adjournment for complying with the direction.
15. On perusal of the record, it is noticed that despite the pandemic, the Decree Holders have been able to arrange and file documents running into around 1200 pages besides images of the property, evidence by way



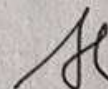
of affidavit, various applications, proposed issues, special power of attorney and notarised affidavit. If all this could have been in a short time span during the pandemic, there is no reason why the Decree Holders could not have disclosed their earnings from the plots number 1 and 3, et al.

16. A lenient view is taken and the matter is again adjourned at the request of the Decree Holders. They are again directed to comply with the directions given in paragraph number 7 of order dated 17.06.2020. Besides the information sought in the said order, the Decree Holders will also disclose in whose possession these plots have been since 11.11.1999 and details of pending and disposed off suits relating to the plots number 1, 2 and 3. However, it is ordered that if due to the pandemic, the Decree Holders are finding it difficult to arrange a site plan and photographs of the said plots number 1 and 3, they need not file these by the next date of hearing and can file it on a subsequent but early date.
17. At the request of the Id. Senior Advocate for the Judgment Debtor no. 2, the Ld. Senior Advocate appearing on behalf of the Decree Holders undertakes that an affidavit in support of the 'Answer to the Court Queries (17.06.2020) along with relevant submissions...' filed by the decree holders, will also be filed.
18. The judgement debtors are also directed file their reply to the 'Answer to the Court Queries (17.06.2020) along with relevant submissions...' and documents that they wish to rely upon.
19. After passing the order dated 17.06.2020, one more question has come to the mind of this Court i.e. whether each part of the superstructure is accessible by a person on foot or by a vehicle for the entire period for which mesne profits are to be calculated, keeping in mind that the land outside the periphery of the superstructure is not public land and may not be for common use as a path to walk on or as a driveway, since the



Judgment debtors are claiming ownership over it and have been in possession of it. If the superstructure is not so accessible, should the mesne profits be reduced and if yes, to what extent?

20. The parties shall also respond to this fresh query of the Court.
21. The aforementioned filing will be done by the parties by emailing it to the court at arc1.central4220@gmail.com before 10 am on the day prior to the next date of hearing.
22. The decree holders shall also submit hard copy of all their filings done till now in court number 42, Tis Hazari Court complex at any time between 10:30 am and 2 pm latest by 6.07.2020. Hard copy of all the fresh filing required to be done by this order by the parties will be submitted in court number 42, Tis Hazari Court complex at any time between 10:30 am and 2 pm latest by 9.07.2020.
23. To come up for arguments on the queries of the court on 10.07.2020 at 2 pm.
24. The Ahlmad is directed to immediately send copy of this order and details required for joining court proceedings through video conference on the next date of hearing, to the learned Counsels for parties.



(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
02.07.2020

M.No. 47/19

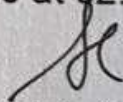
New No. 751/20

02.07.2020

The present matter has been taken up for hearing by way of video confrencing on account of lockdown due to Covid 19.

Present : Dr. Arun Mohan, Ld. Senior Advocate with Mr. D.S. Khatri, Ld. Counsel for the decree holders.
Mr. Ram Kumar, Ld. Counsel for judgment debtor no. 1.
Mr. Sanjay Poddar, Ld. Senior Advocate with Ms. Pooja Kalra, Ld. Counsel for the judgment debtor no.2.

To come up alongwith connected case on 10.07.2020 at 02:00 PM.


(Shirish Aggarwal)
ARC-1, Central District
Tis Hazari Courts, Delhi
02.07.2020