

(2000) 07 DEL CK 0005

In the Delhi High Court

Case No : I.A. No. 3761 of 2000 in S. No. 990 of 1998

Maresh Chandra Sharma and Others

APPELLANT

Vs

N. Appukuttan

RESPONDENT

Date of Decision : 03-07-2000

Acts Referred:

Citation : (2000) 86 DLT 659 : (2000) 56 DRJ 387

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Mr. M.R. Chawla, for the Appellant; Mr. P. Chandershekhar, for the Respondent

Judgement

Vikramajit Sen, J.—A suit has been filed by the plaintiff seeking a decree of possession against the Defendant in respect of a part of bungalow No. 5, Doctors Lane, New Delhi-110001 as shown in red in the Plan attached to the plaint. Along-with the plaint a copy of the Legal Notice dated 8.7.1997 has also been filed, the third paragraph of which is important and reads as under:

"That taking benefit of the above said litigation which started in the year 1973 you have made unauthorised construction of a room in front of Lavatory Block of the back side rooms of the house on the ground floor. The room unauthorisedly constructed by you is of approximate measurement of 10"x12". The Lavatory Block was meant for the use of four persons residing in four rooms but you have now started using it yourself and are not allowing to use the same to others."

2. The suit was filed in May 1998. A perusal of the Site Plan shows that the portion in occupation of the Defendant included a room, verandah, kitchen, small open space and a W.C. and toilet immediately in line with and contiguous to the gate. During the pendency of the suit the Defendant has filed the present application praying that the plaintiff be directed not to disturb the flow of water to the suit property by cutting off the water connection to the building occupied by the Defendant and further to direct the plaintiff to resume the water supply

forthwith. A long Reply has been filed by the plaintiff inviting the Court's attention to details of the litigation between the parties hereto. These are not relevant for disposal of the present application. However, in paragraph four the plaintiff has once again reiterated the stand taken by them in the Legal Notice adverted to above.

3. From the pleadings of the parties it is clear that the Defendant/Applicant has been in occupation of the premises for almost four decades. The Defendant/Applicant undoubtedly enjoyed the use of the toilet and lavatory. The primary objection of the plaintiff was that the Defendant/Applicant was not permitting other occupants to use them. It is well settled that status quo should be maintained by parties during the pendency of litigation. This principle is based on sound commonsense and is calculated to obviate the necessity to file applications such as the present one.

4. The learned counsel for the plaintiffs have emphasised that the Defendant/Applicant has not stated when the water supply was disconnected. No doubt this is true, but it is wholly irrelevant since it can be fairly deduced from the pleadings and the stance of the rival parties that the Defendant/Applicant did have the use of the toilet. This use of the toilet obviously includes water. The parties are, quite clearly, deeply entrenched in litigation and it appears palpably clear that the plaintiffs had disconnected the water supply in order to harass the Defendant/Applicant into vacating the premises.

5. As discussed above it is clear that the Defendant/Applicant had the use of the toilet with water supply therein. These facilities must be protected during the pendency of the litigation. I find merit in the application and the opposition thereto is vexatious and calculated to cause harassment to the Defendant/Applicant.

6. In these circumstances the application is allowed and the plaintiffs are directed to ensure resumption of water supply and continued water supply thereafter to the portion occupied by the Defendant/Applicant during the pendency of the suit.

7. In the circumstances of the case the interest of justice call for the imposition of costs, which are assessed at Rs.3000/-.