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

% ***Date of Decision: 26th May, 2025***

+ CM(M) 998/2025 & CM APPL. No. 32834/2025

DR. DEBASHISH CHAKRAVARTTYPetitioner

Through: Mr. Arunava Mukherjee and Mr.
Nisarg P. Khatri, Advocates.

versus

SABYASACHI CHAKRAVARTTY & ORS.Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is plaintiff before the learned Trial Court and when his suit was taken up by the learned Trial Court on 28.10.2022, it allowed the application moved under Order XXXIX Rule 1 CPC while observing as under:-

“In view of the above discussion, application under Order 39 Rule 1 and 2 CPC moved by the plaintiff is hereby allowed. Defendants are restrained from dispossessing the plaintiff and also restrained from blocking his access into the suit property i.e., garage, bedroom and toilet on ground floor of property bearing no. B-4/65, Safdarjung Enclave, New Delhi till final disposal of this matter. Application under Order 39 Rule 1 and 2 CPC is disposed off accordingly. Nothing stated herein shall tantamount to expression of opinion on merits of this case.”

2. The abovesaid order has already attained finality as the appeal filed against the abovesaid order has been dismissed by the learned First Appellate Court.

3. The grievance of the plaintiff is, merely, limited to the effect that despite there being an injunction order, and despite the fact that even the first appeal has been dismissed, the order has not yet been complied with and when an application was moved under Order XXXIX Rule 2A CPC, the learned



Trial Court has postponed the hearing of the abovesaid application, along with the final arguments.

4. This Court has seen order dated 25.01.2025 whereby the plaintiff was persisting for consideration of his such application moved under Order XXXIX Rule 2A CPC.

5. Needless to say, since there is an injunction order, and since even the appeal was also dismissed by the learned First Appellate Court, such application should not have been postponed with direction to be considered along with the final arguments, after comprehensive evaluation of evidence.

6. None appears on behalf of the respondent despite advance notice.

7. Generally, such type of application does not necessitate leading of evidence and compliance can be confirmed by asking the other side to file *affidavit of compliance*.

8. Keeping in mind the above, the present petition is disposed of with direction to learned Trial Court to consider the abovesaid application moved under Order XXXIX Rule 2A CPC, after giving due opportunity of hearing to both the sides.

9. Since the petitioner is stated to be an octogenarian, the learned Trial Court would also try to dispose of the suit as expeditiously as possible.

10. The petition stands disposed of in aforesaid terms.

11. The pending application also stand disposed of.

**(MANOJ JAIN)
JUDGE**

MAY 26, 2025/ss/pb