

25/02/2022

Pursuant to Order no.996-1016/Judl. Br./East/KKD/Delhi dated 11.02.2022 of Ld. Principal District & Sessions Judge, (East), Karkardooma Court, Delhi, file is taken up for **physical hearing**.

Present: Sh. Vishal, proxy counsel for plaintiff.

Counsel Ms. Shilpi Sharma for defendant.

Proxy counsel Ms. Aarti Walia for the proposed defendant.

Submissions heard on application moved on behalf of plaintiff on 27.01.2018 under Order 1 Rule 10 r/w Section 151 CPC.

The reply to said application has been filed on behalf of defendant. There is no reply filed on behalf of proposed defendant.

Put up for order/clarification, if any at 4.00 p.m.

(VIJAY KUMAR JHA)
Addl. District Judge-02 (East)
Karkardooma Courts/ 25/02/2022

At 4.00 p.m.

Present: None.

The plaintiff filed the suit for specific performance, possession, permanent injunction and damages on 09.12.2014 with the material averment that the defendant was the registered owner of property in dispute at Upper Ground Floor bearing no.U-118-A which the defendant agreed to sell to the plaintiff for a total consideration amount of Rs.15,50,000/- on 04.05.12. Plaintiff paid the entire consideration amount out of which Rs.10,50,000/- was paid by way of cash and remaining amount of Rs.5 Lakh by way of cheque

which was duly encashed. Plaintiff also purchased stamp duty of Rs.62,000/- for the execution of sale deed. The sale deed was executed, however, it was not registered for the reasons as averred in the plaint. In these circumstances, the plaintiff has filed the present suit for specific performance and possession and other cognizant reliefs.

Issues have been framed. When the matter was at the stage of plaintiff's evidence on behalf of plaintiff an application under Order 1 Rule 10 CPC has been filed for impleading one Sh. Prakash Mishra as the defendant in the present suit with the averment in the application that the plaintiff from her sources came to know that during the proceeding of the case, defendant also sold the said property to the proposed defendant where the defendant has also changed the number of said property as U-118/2 vide sale deed dated 01.11.2013 and the said document has been registered before the Sub-registrar.

From the material facts which have been averred in the present application, it would be necessary for the plaintiff to seek declaration with respect to the documents of the proposed defendant, for which as per Article 58 of the Limitation Act, the limitation is three years. It has not been stated clearly in the application in hand as to when the plaintiff came to know about the execution of documents in favour of defendant. **Accordingly, matter is adjourned for clarification.**

Put up for clarification/order on **21.05.2022.**

(VIJAY KUMAR JHA)
Addl. District Judge-02 (East)
Karkardooma Courts/ 25/02/2022