

18.7.2017

Present:- Proxy for the plaintiff

Shri Vijay Waghey - Ld. Counsel for the defendant No. 1

alongwith defendant No. 1

Ld. Counsel for the plaintiff is again not available and this is the fourth adjournment sought on his behalf. As per the latest circular issued by the Hon'ble Acting Chief Justice, Delhi High Court, no adjournment more than three in number can be granted in any case.

In view thereof, the plaintiff is not entitled for any further adjournment.

Heard the Ld. Counsel for the defendant on the application under Order 39 Rule 1 & 2 CPC. The plaintiff has filed the present suit seeking damages and declaration for cancellation of Gift Deed dt. 01.8.2013, executed by the plaintiff in favour of defendant No. 1. It has been agitated that the defendant has violated the terms and conditions of the said Gift Deed. In view thereof, prayer has been made in the application for restraining Defendant No. 1 not to transfer or create any third party interest in respect of the said Gift Deed.

In reply, it is submitted by Ld. Counsel for the defendant that the Gift Deed for which the declaration has been sought in this case is dt. 01.8.2013, whereas the present suit was filed on 01.8.2016. in any case, it has been pointed out by Ld. Counsel that as per para 4 of the plaint, the plaintiff himself has stated that the old structure has been demolished by defendant No. 1 with the help of a builder and fresh structure has been raised on the suit property up to 5th storey while parking has been made on the ground floor. This fact has been admitted by the defendant No. 1 in the WS.

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In view thereof, the application is allowed to the effect that no construction shall be raised by either of the parties till further orders of the Court and status quo be maintained by both the parties over there. The application stands disposed of in terms of the above order.

Pleadings are complete in this case. From the pleadings of the parties following issues are hereby framed :

ISSUES :

- 1). Whether the plaintiff is entitled for damages, if any, and if yes, to what amount? OPP***
- 2). Whether the plaintiff is entitled for a decree of declaration declaring the Gift Deed dt. 01.8.2013 as null & void/cancelled? OPP***
- 3). Whether the present suit is barred by limitation? OPD***
- 4). Whether the present suit is bad for non-joinder of necessary party? OPD***
- 3). Relief.***

No other issue arises or is pressed for.

Put up for PE on **03.11.2017**. Advance copy of affidavit in evidence on behalf of the plaintiffs be supplied to Ld. Counsel for the defendant at least one week before the next date, so that the plaintiff's witness could be cross-examined on that date.

(Sanjay Sharma-I)
Addl. District Judge-02(East)
Karkardooma Courts- 18.7.2017