

CS. No. 795/17

SMT. NIDHI SHARMA VS G.K. SHARMA ETC.

30.10.2019

Present: Sh. Himanshu Nainwal, Ld. Counsel with plaintiff.
Sh. Naresh Kumar, Ld. Counsel with defendant No.1.
Defendant No.2 already exparte.

Receipt of deposit of cost of Rs.1000/- is shown. It appears that written statement, to the amended plaint has been filed, copy already supplied. No replication is being filed, now need not be filed. Admission/denial is being done. Following issues have been framed:-

1. Whether the plaintiff is entitled for the decree of cancellation as claimed in prayer clause (i) of the plaint? OPP.
2. Whether the plaintiff is entitled for the decree of declaration as claimed in prayer clause (ii) of the plaint? OPP.
3. Whether the plaintiff is entitled for the decree of ejectment as claimed in prayer clause (iii) of the plaint? OPP.
4. Whether the plaintiff is entitled for the decree of damages/mense profit and if so, at what rate and for what period? OPP.
5. Whether the suit is undervalued for the purposes of court fees and jurisdiction? OPD.
6. Whether the suit is bad for non/misjoinder of necessary parties, and if so, to what effects? OPD.
7. Relief.

No other issue arises or pressed for and hence explained.

Advance copy of affidavit's of P.Ws be supplied to the Ld. Counsel for defendant in advance and against receipt and at least a month before NDOH i.e. 11.03.2020. Parties may file list of witnesses as per rules with copy to other side.

At this stage it is noticed that interim application is also pending. Heard arguments. It is submitted that the suit itself is not maintainable, as based on bogus documents, whereas, on the other hand Ld. Counsel for plaintiff has submitted that the suit property needs to be preserved and I am of the considered opinion that grant of injunction can be justified to avoid multiplicity of litigation between the parties, and therefore, there appears to be a prima facie case on the horizon and even the factors of irreparable loss and balance of convenience also go therewith and as such defendant No.1, who is admittedly, stated to be in physical possession of the suit property, is hereby restrained not to alienate or otherwise, create third party interest in the suit property, as shown in the site plan attached, during the pendency of the suit. Nothing of my this order shall have any reflection whatsoever on the merits of the case in any manner. Injunction application is disposed off accordingly.

Sh. Himanshu Nainwal, Id. Counsel for plaintiff submits that he would immediately file remaining deficient court fees during the course of the day and if the same is not placed on record, the plaint shall be rejected.

(Sanatan Prasad)
Additional District Judge-01