

CS No. 587/17

Hawa Singh Vs. Randhir Singh Rana

07.02.2019

Present: Ld. Counsel for the plaintiff.
Ld. Counsel for the defendant.

Arguments heard on application under Order 12 Rule 6 CPC.

It is the case of plaintiff that he has filed the present suit against the present defendant who is real brother of plaintiff on the basis of an MOU dated 27.11.2007. It is the case of plaintiff that earlier, plaintiff was owner of certain land, a part of which was executed by defendant in his favour by playing fraud upon the plaintiff and got fraudulent sale deed executed in the year 1982. Further argued that the fraudulent intention is evident from the fact that despite a registered sale deed in favour of defendant no.1, an MOU was executed between the parties in the year 2007 pursuant to which lands were transferred and re-transferred between the parties. Further argued that recently when plaintiff started constructing his portion of land, it came to his knowledge that land in actual possession in plaintiff is short by 30 Sq. Yards for which the present suit is filed.

The same is denied by Ld. Counsel for defendant on the ground that the said MOU was obtained by plaintiff by playing undue influence and hence separate suit was obtained declaring the said MOU as null and void.

Heard both the sides and gone through the record.

When a separate suit thereby challenging the impugned MOU dated 27.11.2007 is pending before this Court, in such circumstances it is not possible to allow this application under Order 12 Rule 6 CPC as the said MOU is under challenge in another proceedings pending before this Court. In these circumstances, the application under Order 12 Rule 6 CPC is dismissed.

Affidavit of admission/denial was filed by the plaintiff in between the dates of hearing.

Arguments heard.

Out of the pleadings, following issues are identified-

ISSUES-

1. Whether plaintiff is entitled to a decree of mandatory injunction thereby seeking directions against the defendant that they be directed to remove an authorised construction on land admeasuring 30 Sq. yards lying in the impugned property as shown in red colour in the site plan? OPP.

2. Whether plaintiff is entitled to decree of possession qua the land admeasuring 30 Sq. Yards in the impugned suit property? OPP.

3. In the alternative whether plaintiff is entitled to decree of recovery of Rs.15 lacs along with interest @ 18% qua the said 30 Sq. Yards in the impugned property? OPP.

4. Whether plaintiff is entitled to cost of the suit ? OPP.

5. Whether plaintiff has any title with respect to the impugned 30 Sq. Yards of the impugned property? OPD.

6. Whether plaintiff concealed any material facts from the Court? OPD.

7. Whether no relief is made out against defendant no.2? OPD.

8. Relief.

No other issue arises or pressed.

At this stage, it is pointed out by Ld. Counsel for the plaintiff that status quo was directed to be maintained in the present case also by this Court vide order dated 10.05.2018. However, the same is mentioned in the ordersheet in the connected suit but is left out in the present suit.

The other case is regarding MOU being challenged by the present defendant therein. The status quo was directed to be maintained in the present case but it appears to have been mentioned in the said case. In the circumstances, it is hereby directed that status quo be maintained with respect to the impugned property in the present case.

Put up for PE on **18.07.2019**.

(TWINKLE WADHWA)

ADJ-03/PHC/NEW DELHI

07.02.2019

