

**IN THE COURT OF SH. RAHUL BHATIA, LD. DJ-01,
SOUTH-EAST SAKET COURTS, NEW DELHI**

CS NO. 1019/2019

MOHD. ABBASS

....PLAINTIFF

VS.

ZAREEN BEGUM

....DEFENDANT

DATED 12.12.2024

ORDER

1. Today the matter has come up for orders on 03 applications (1) under Order I Rule 10 CPC, (2) application under Order VI Rule 17 CPC and (3) application under Section 19(b) of Specific Relief Act 1963 (hereinafter referred as '**The Act**')

2. The present suit has been filed by the plaintiff for specific performance of bayana agreement dated 18.05.2018 between the plaintiff and the defendant with respect to first floor without roof rights of land ad-measuring 50 sq. yards in property No. RZ-2539, Gali No. 27, situated at Tuglakabad Extension, New Delhi.

3. After the filing of this suit, defendant filed her written statement. In the written statement, it has been mentioned that the defendant has sold the suit property to one Shabnam Ara on 27.11.2018.

4. On getting information regarding the said sale, the plaintiff filed application under Order I Rule 10 CPC for

impleadment of Shabnam Ara as a party defendant in the present case. Plaintiff has also filed an application under Order VI Rule 17 CPC for amendment in the plaint and to incorporate the fact of the subsequent sale and has prayed for consequential relief against the proposed defendant. During course of the arguments, plaintiff also filed an application under Section 19(b) of the Act to substantiate the claims made in the abovesaid applications.

5. Defendant and proposed defendant have filed their reply and opposed the applications. Defendant has stated that the abovesaid applications have been filed after substantial delay as the written statement was filed on 29.03.2022 and application was filed on 16.01.2024. Proposed defendant has submitted that they have purchased the suit property through a validly executed document and the suit property has been purchased by the proposed defendant without any information of the agreement to sell in favour of the plaintiff. It is submitted that the proposed defendant is unnecessarily arrayed in the present suit as she has no concern with the agreement between the plaintiff and the defendant.

6. Per contra, Ld. Counsel for plaintiff has submitted that the proposed defendant is liable under Section 19(b) of the Act as the sale deed in favour of her is after the agreement to sell in favour of plaintiff. It is further submitted that the issue whether the proposed defendant purchased the suit property in good faith and without notice of original contract is a matter of trial which the plaintiff would be able to prove during trial.

7. Heard. Perused.

8. The present case has been filed by plaintiff for specific performance for an agreement 18.05.2018 in his favour. Defendant by filing has stated in her WS that the suit property has already been sold to the proposed defendant vide a registered sale deed dated 27.11.2018. Section 19(b) of the Act provides that a contract may be specifically enforced against a person who is claiming a title arising subsequent to the contract, if the plaintiff can show that the transferee did not act in good faith or that he had notice of the original contract.

9. In the present case, it is clear that the proposed defendant got the title of suit property vide sale deed dated 27.11.2018, which was after the agreement to sell between the plaintiff and the defendant. Whether the proposed defendant purchased the suit property for value paid in good faith and without notice to the original contract or not is a matter of fact which can only be proved by way of trial. As it is apparent that the sale deed of the proposed defendant is later to the agreement to sell in favour of plaintiff, the plaintiff deserves the chance to prove whether his case is covered under Section 19(b) of the Act or not. What is relevant at this stage is the later execution of the sale deed and the allegation of the plaintiff that the same can be covered under Section 19(b) of the Act.

10. In view of the above discussion, the proposed defendant is a necessary party in the present suit and as such, the application under Order I Rule 10 CPC is allowed.

11. Since the amendment sought by way of application under Order VI Rule 17 CPC is consequential of the impleadment

of the proposed defendant, the same is also allowed. Amended
plaint filed with the application is taken on record.

12. The application under Section 19(b) of the Act is
also on the same grounds and hence, the same is also allowed.
Plaintiff is directed to file amended memo of parties within 07
days.

**Announced in the open Court today
on 12 December, 2024**

**(Rahul Bhatia)
District Judge-01
SE/Saket Courts/12.12.2024**