

CS No. 518/17**Narinder Singh Through GPAs Vs. Satish Goel and
Another****27.07.2018.****ORDER**

1. Vide this order, I shall decide the application of Narinder Singh filed under order 39 rule 1 and 2 CPC.

2. This case has chequered history. This is the counter claim by the subsequently impleaded defendant no.2 in the suit bearing no.1952/16. The said suit was initially filed by one Satish Goel and Kuldeep Sharma against Praveen Kumar with the prayer that he be restrained from interfering in their peaceful possession in the suit property measuring 1 bigha, out of Khasra No.271 situated in the area of village Sahibabad Daultpur, Delhi now known as C block, Gali Bo.2, Parhlad Vihar, Shahbad Dairy, Delhi-42 (hereinafter referred as suit property). The said suit was decreed on 18.10.2016 on the basis of statement of Praveen Kumar that he will not interfere in the peaceful possession of the plaintiffs qua the suit property. After obtaining the decree, plaintiffs filed execution petition against defendant Praveen on 21.11.2016. The defendant/ JD Praveen gave the statement before the Executing Court that he is not interfering in the suit property and had already given possession to the plaintiffs/ DH on

21.12.2016. The execution petition was accordingly disposed off.

3. Thereafter, the counter claimant herein filed one application Under Order 1 rule 10 CPC and objections Under 22 Rule 101 CPC and also got FIR 49/17 registered against respondents. After considering the application and objections of claimant, the decree dated 18.10.16 was set aside vide order dated 03.03.2017. The said suit was subsequently dismissed in default and for non prosecution on 23.05.2017.

4. Now this is the counter claim which has been filed by the impleaded new defendant Narinder Singh against the plaintiffs Satish Goel and Kuldeep Sharma.

5. As per the counter claimant, he is the registered owner of the suit property having purchased the same vide registered sale deed dated 06.11.1990 from its erstwhile owner Sh. Naresh Sharma. It is stated that the suit property was duly mutated in his name in the revenue record on 07.05.1996. He is in settled use, occupation and possession of the suit property since then to the exclusion of others. It is further stated that he had executed registered GPA dated 18.09.2012 in respect of the suit property in favour of Smt.Asha Rawat, Smt. Neelu Bawa and Sh. Dalip Kumar, who have filed the claim on his behalf.

6. It is alleged the respondents are trying to grab the suit property on the basis of some forged and fabricated documents and have also erected temporary tin shed in the suit property without any authority. In the application it is prayed that respondents be restrained from selling, transferring and creating any third party in the suit property. They be further restrained from interfering in the peaceful use and enjoyment of the suit property by the claimant.

7. In the reply, filed on behalf of respondent no.2, he has taken the preliminary objection that the claimant has no locus-standi to file the present claim. The documents furnished by the claimant are with respect to some other property and not to the suit property. It is he who has purchased the suit property from Satish Goel vide GPA, agreement to Sell, possession letter, Will all dated 15.11.2016 and 17.11.2016. It is prayed that application is without any merits and is liable to be dismissed.

8. I have perused the complete record file. Claimant has filed copy of registered sale deed 06.11.1990 to show that he has purchased the suit property from the erstwhile owner alongwith the copy of Khatauni. He has also placed on record the copies of registered GPAs duly executed in favour of Asha Rawal, Neelu Bawa and Dalip Kumar. All these documents are registered documents. Respondent no.2 has merely filed the photocopy of GPA, Agreement to Sell and other documents to

show that he has purchased the suit property from Satish Goel. The documents filed by respondent no.2 are dated 15.11.2016 and 17.11.2016. These unregistered documents do not create any valid title in favour of R-2 as compared to the claimant.

9. From the documents filed by the claimant and his GPA holders, prima-facie case is made out in their favour. There is no dispute to the fact that earlier also, respondents have claimed certain rights over the suit property by filing the civil suit which was subsequently dismissed in default. FIR has also been lodged against respondents. Irreparable loss shall be caused to the claimant, if, his right and possession in the suit property is not protected at this stage. Accordingly, the application of claimant under order 39 rule 1 and 2 CPC is allowed. Respondents are hereby restrained not to transfer, sell or create any third party interest in the suit property till the disposal of the suit. Respondents are further restrained not to interfere in the peaceful possession of the claimant or his associates in the suit property. The application under order 39 rule 1 and 2 CPC is accordingly disposed off.

**Kiran Gupta
ADJ-03, Rohini Courts,
North District, Delhi
27.07.2018**