

Misc. DJ No. 88/19

Pradeep Rana since deceased through Lrs vs Ravi Kundu & ors.

09.09.2020

Today the file is taken up on the application for urgent hearing and preponement of date of hearing moved on behalf of the applicant, Ms. Sudesh.

The matter has been taken up through video conferencing via Cisco Webex.

Present: Sh. Kuldeep Balhara, Advocate, counsel for the applicant, Ms. Sudesh.

Heard. The application for urgent hearing is allowed.

Regarding the application for preponement of date of hearing, counsel for the applicant pleaded that the defendants no.1,3 & 4 and proposed defendants are threatening the applicant to dispossess her from the suit property. The said act of the said persons is in violation of the order passed by Hon'ble High Court of Delhi in the year 2017. He also pleaded that the notice of the application u/o 22 R 3 CPC may be issued to the non-applicants i.e. D-1 to 4 through E-mail ID/ whatsapp. Hence, he prayed that the application may be allowed.

I have heard the counsel for the applicant and have perused the material available on record.

Perusal of the record reveals that on earlier occasion, the applicant, Ms. Sudesh moved the application for preponement of date of hearing almost on the similar grounds as raised in the present application and vide detailed order dated 10.08.2020, the said application was dismissed. As per record, the said order has attained finality as on date. Despite that the applicant has moved another application i.e. the present

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application almost on the similar grounds for the same relief. It is pertinent to mention here that the first application was also moved through Sh. Kuldeep Balhara, Advocate who has moved the present application. However, the present application is silent to this effect. It is the well settled law that one must approach the court with clean hands. In view of the foregoing discussions, it can be held that the applicant has not approached the court with clean hands and has concealed the material fact from this court.

Perusal of the present application reveals that it is not signed by the applicant but has been signed by her counsel Sh. Kuldeep Balhara, Advocate. In support of this application, affidavit of the applicant has been filed. This affidavit is apparently signed by the applicant/deponent just above the word "Deponent" at two places. In para 2 of the affidavit after applying the fluid, the details of the present application is mentioned and the same was signed. With the naked eyes, it can be said that the said signature is different from the signatures done just above the word "Deponent". Hence, it is highly doubtful that the present application has been moved on the instructions of the applicant.

Counsel for the applicant pleaded that the defendants no.1,3 & 4 and proposed defendants are threatening the applicant to dispossess her from the suit property which is in violation of the order passed by Hon'ble High Court of Delhi in the year 2017. The said submission of the counsel is misrepresentative in nature because subsequently, the subject suit was withdrawn by the plaintiff on 31.08.2017 and was disposed of accordingly.

The plea of service upon the defendant through email ID/whatsapp is not only beyond pleading but also has nothing to do with the present application.

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In view of the foregoing discussions and for the reasons mentioned in the order dated 10.08.2020 which are not repeated herein for the sake of brevity, it can be held that the present applicant is devoid of merits and is a gross misuse of process of law. Further, material fact has been concealed from this court. There is misrepresentation of facts at the time of arguments. Therefore, the applicant cannot be allowed to take the advantage of her own wrongs. Hence, the application is dismissed with cost of Rs.5,000/ to be deposited with DLSA (N), Rohini.

It is noted that the alongwith the above-mentioned application, the applicant has filed a number of applications. In addition, another set of application has been filed on behalf of Balrani, Sheila and Anita and the same has been fixed for consideration on 14.10.2020. Accordingly, the said applications be also listed for hearing on 14.10.2020.

(Pankaj Gupta)
ADJ-1(North)/Delhi/09.09.2020