

Misc DJ No. 88/19

Pradeep Rana vs Ravi Kumar

11.09.2020

Today the file is taken up on the application for urgent hearing and the application u/o 39 R 1&2 CPC moved on behalf of applicant Balrani.

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

Present: Sh. Rakesh Chahar, Advocate, counsel for the applicant Balrani.

Heard. The application for urgent hearing is allowed.

Regarding the application u/o 39 Rule 1 & 2 of CPC, counsel for the applicant pleaded that the defendants no.1 to 4 alongwith proposed defendants no.5&6 are interfering in the possession despite the order passed by Hon'ble Delhi High Court and therefore, they may be restrained from taking forcible possession of the subject land.

Brief facts leading to filing of the present application are that one Pradeep Rana filed the suit against the defendants and during the pendency of the said suit, he expired. Consequently, his LRs i.e. his wife Suman and his mother Indra Devi were impleaded as his LRs. The said Indra Devi also expired. As revealed from the record, the disputes were settled between the parties in mediation cell vide settlement dated 28.08.2017 and consequently, vide order dated 31.08.2017, the plaintiff therein withdrew the said suit.

Perusal of the record also reveals that one Amardeep Rana, claiming himself to be the son of deceased Indra Devi (mother of deceased Pradeep Rana) moved the application u/o 22 R 9 CPC r/w Order 23 R 3 and 3A r/w CPC. During the pendency of the said application, Amardeep also expired and one Sudesh claiming herself to be the wife of deceased Amardeep moved the application u/o 22 R 3 CPC for her impleadment as LRs of deceased Amardeep which is pending for disposal. The said applicant

had also moved the application u/o 39 R 1&2 CPC. Vide order dated 21.12.2019, it was held that in view of the pendency of the application u/o 22 R 9 CPC r/w Order 23 R 3 and 3A r/w Sec. 151 CPC, there is no occasion to issue notice of the said application. Thereafter, the said applicant has made a number of attempts to obtain the restraint order against the defendants and proposed defendant but remained unsuccessful. Now the present application has been moved on behalf of Balrani almost on the similar grounds.

Regarding the present applicant, perusal of the record reveals that the applicant Balrani along with Sheila and Anita moved the application u/o 22 R 3&9 r/w Order 23 R 3 and 3A r/w Sec. 151 CPC and the same is listed for hearing on 14.10.2020. In the meantime, the present application u/o 39 R 1&2 CPC has been moved on behalf of Balrani but is not signed by her.

Counsel for the applicant though pleaded that the defendants no. 1 to 4 and proposed defendants are acting in violation of the order passed by Hon'ble Delhi High Court but he has failed to mention the date of the order. Further, there is nothing on record to suggest that the said alleged order was passed after withdrawal of the suit. As such, there is no substance in the said plea raised by counsel for the applicant.

Keeping in view that the application u/o 22 R 3&9 CPC r/w Order 23 R 3 and 3A r/w Sec. 151 CPC moved on behalf of the present applicant is listed for consideration on 14.10.2020, there is no occasion to even issue the notice on the present application at this stage. Therefore, the present application be put up on the date already fixed i.e. 14.10.2020.

(Pankaj Gupta)
ADJ-1(North)/Delhi/11.09.2020