

**IN THE COURT OF DISTRICT JUDGE-02:
NORTH ROHINI COURTS COMPLEX: DELHI**

IN THE MATTER OF:-

**CS DJ586/23
RANDHIR SINGH Vs. RAGHBIR SINGH**

29.04.2024

ORDER ON APPLICATION

1. Vide this order, I shall dispose of an application u/o 39 Rule 1 and 2 CPC, filed by the plaintiff.

PLAINTIFF'S CASE :

2. The suit property is khasra no. 44/8, area measuring 200 sq. yds. situated in area of gali no.11 B, Swatantra Nagar, Narela, Delhi(hereinafter referred to as suit property).

3. It is the case of the plaintiff that property was purchased in his own name by Sh. Amar Singh, father of the plaintiff and defendants. Sh. Amar Singh died on 02.01.1999 and after the death of Sh. Amar Singh plaintiff and defendants being brothers/LRs have share in suit property.

4. It is argued that suit property is a vacant land. Defendants are trying to alienate the suit property. It is prayed that defendants be restrained from selling the suit property or creating any third party interest.

DEFENDANTS' CASE :

5. The defendants no. 1 , 2 and 3 are present in the court. They state that they do not want to alienate the suit property. Statement to that effect has been separately recorded.

SCOPE OF INTERVENTION BY COURT :

6. In the case of Gujarat Bottling Co. Ltd. v. Coca Cola Co. reported in 1995 (5) SCC 545, the Hon'ble Supreme Court, while discussing the factors to be considered by the Courts in exercise of the discretion under Order XXXIX Rule 1 & 2 CPC, has held that:

“The grant of an interlocutory injunction during the pendency of legal proceedings is a matter requiring the exercise of discretion of the Court. While exercising the discretion, the Court applies the following tests: (i) Whether the plaintiff has a prima facie case;
(ii) Whether the balance of convenience is in favour of the plaintiff;
(iii) Whether the plaintiff would suffer an irreparable injury if his prayer for interlocutory is disallowed.”

APPLYING THE ABOVE CONSIDERATIONS TO FACTS OF PRESENT CASE ;

7. This court has heard the rival submissions of the parties and perused the relevant record with their assistance. Since there is no objection by the defendants. Their joint statement has been recorded separately. The defendants are restrained from alienating the suit property or from creating any third party interest during pendency of the case.

CONCLUSION :

8. In totality of circumstances, the application u/o XXXIX Rule 1 and 2 CPC by the plaintiff is allowed. Defendants are restrained from creating 3rd party interest, selling the suit property till the disposal of the suit. However, nothing stated in the order shall affect the merits of the case.

9. Application stands allowed.

Announced in the open court
order contains 3 pages

(VIKRAM BALI)
DISTRICT JUDGE-2/NORTH/ ROHINI
COURT/DELHI/29.04.2024