

CS DJ 1080/19

SUBHASH CHANDER Vs. BRIJ MOHAN MISHRA

02.12.2022

Present:- Sh. S. N. Gupta, Ld. Counsel for the plaintiff.
Defendants no. 1 and 2 in person along with Ld. Proxy Counsel Mohd. Waseem Akram.
Defendant no. 3 in person along with Ld. Counsels Sh. R. K. Pandey and Sh. Yash Basoya.
None for defendants no. 4, 5 and 6.

Neither defendants no. 4, 5 and 6 nor their representative appeared despite calls since morning.

Perusal of the record shows that right of defendant no. 5 to file written statement is already closed vide order dated 03.03.2020 of Ld. Predecessor Court.

It is already 11:53 AM, **defendants no. 4, 5 and 6 are hereby proceeded ex-parte.**

Part arguments heard on the application under Order VII Rule 11 CPC.

During the course of the arguments, Ld. Counsel for defendant no. 3 wishes to withdraw the present application under the instructions and on behalf of defendant no. 3. **Keeping in view the submissions made, application under Order VII Rule 11 CPC is dismissed as withdrawn.**

At this stage, Ld. Counsel for defendant no. 3 has moved an application for waiver of cost of Rs. 1,500/- imposed

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upon the defendant no. 3 on last date of hearing. The same is strongly opposed on behalf of plaintiff.

Submissions heard. Record perused.

Keeping in view the totality of circumstances and in the interest of justice, the cost imposed upon defendant no. 3 on last date of hearing stands reduced to Rs. 1,000/-. **Application is accordingly disposed of.** Reduced cost of Rs. 1,000/- stands paid by defendant no. 3 to plaintiff today.

Pleadings are complete. Proposed issues filed on behalf of both the parties. Based on the pleadings, following issues are framed as under:-

Issue no. 1: Whether the plaintiff is entitled to decree of declaration as per prayer clause-(i)? OPP.

Issue no. 2: Whether the plaintiff is entitled to decree of permanent injunction as per prayer clause-(ii)? OPP.

Issue no. 3: Whether the plaintiff is entitled to decree of mandatory injunction as per prayer clause-(iv)? OPP.

Issue no. 4: Whether the suit of the plaintiff is not properly valued for the purposes of Court fees and jurisdiction? OPD-1, D-2 & D3.

Issue no. 5: Whether the plaintiff has not approached this Court with clean hands? OPD-1, 2 and 3.

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Issue no. 6: Whether defendant no. 3 had any right, title or interest in the suit property at the time of execution of impugned sale deed? OPD-3.

Issue no. 7: Relief.

No other issue arises or pressed for.

List of witnesses be filed alongwith evidentiary affidavit of the witnesses within 15 days with advance copy to the opposite side.

Now to come up for PE on **21.02.2023**.

(Akash Jain)

**ADJ-1 (South-East), Saket Court
New Delhi/02.12.2022**