

CS No. 429/17
Himanshu Aggarwal vs Bal Kishan Sharma

25.09.2018

Present : Plaintiff – by Sh Trilok Chand, Adv.

D1- by proxy cl. Sh. Hiren Kumar, Adv.

D-2- none - Today the Ld. Counsel for the plaintiff has filed an application u/o 1 rule 10 (2) of CPC seeking to delete the defendant no.2 from the array of parties.

Heard on the IA. Considering the submissions and further the defendant no.1 having claimed to be in possession of the suit property for which eviction the suit is filed, the present IA stands allowed in the ends of justice and D2 is directed to be deleted from the array of parties.

Amended memo of parties filed. Heard on the IA u/o 39 rule 1 & 2 of CPC.

ORDERS on IA u/o 39 rule 1 & 2 of CPC :

1. The plaintiff seeks an order of injunction against defendants restraining them from creating the third party interest in the suit property. The application only says that they have a good *prima facie* case and balance of convenience is in their favour. IA states that the suit may be read along with the IA. Case of the plaintiff is that he purchased the suit property on 22.7.2011 under a registered GPA.
2. The defendant no.1 in the written statement contended that he is the owner of the suit property in question and has got power supply and the property is in his name. He has spent huge amounts on renovation.
3. Reply is also filed to the IA which denied the title of the plaintiff. However, the plaintiff had relied on certain documents in support of his case which are the copies of agreement to sell and the GPA. These documents are perused. The defendant has not filed any documents to contend the ownership. Thus this court sees the *prima facie* case of the plaintiff and the

balance of convenience in favour of the plaintiff. In view of the above, it is expedient to preserve the status and the nature of the property so that the plaintiff is not put to a situation to face multiplicity of proceedings in case of creation of third party interest in the property by the contesting defendant. Hence, the following :

ORDER

The IA filed u/o 39 rule 1 & 2 of CPC by the plaintiff is allowed. The defendant is hereby restrained from creating any third party interest in the suit property pending disposal of the above suit.

Put up this matter for appearance of parties, production of original documents, recording the statement of the parties u/o 10 of CPC and to hear on issues by 28.01.2019.

(A.S. Jayachandra)
District & Sessions Judge
Shahdara District, Delhi/25.09.2018