

9 CS DJ ADJ 30/23

RENU SINGH Vs. AJAY KUMAR PARASHAR

25.11.2023

Both regular steno are no leave, however, only one substituted steno has been provided.

Present: Sh. GD Sharma (through VC), Ld. Counsel for plaintiff.

SPA of Plaintiff.

Sh. Shreshtha Kumar (through VC), Ld. Counsel for defendant.

Matter is fixed for admission/denial of document, framing of issues and argument on application under order XXXIX rule 1 and 2 CPC.

Arguments heard on pending application under order XXXIX rule 1 and 2 on behalf of both the parties.

Briefly stated, present *Suit for Declaration, Possession, Permanent Injunction and Arrears of Rent/Damages* filed by the plaintiff with respect to the *property bearing number 27, out of Khasra no. 16/14, situated at village Nangli, Sakrawati, Delhi, now known as Arjun Park (Block B), Najafgarh, New Delhi, admeasuring 50 sq. yards* (hereinafter referred as 'suit property'). It is averred that plaintiff is exclusive owner of suit property by virtue of documents executed by defendant in favour of plaintiff on 26.11.2015. It is further averred that although possession letter was issued in favour of plaintiff but defendant sought time to hand over physical possession of the suit property to the plaintiff and taken the suit property on rent subsequently but, defaulted in payment of rent as well as refused to vacate the suit premises. Hence, present suit is filed.

Per contra, Ld. Counsel for defendant submits that he never executed any of above document in favour of plaintiff with respect to the suit property and he is the owner as well as in actual possession of the suit property since beginning.

Submissions heard. Record perused.

Considering the facts and circumstances of the present case, this court is of the considered opinion that all three ingredients i.e. *prima facie case, balance of convenience and irreparable loss* i.e. required for the purpose of interim injunction are satisfied. **Accordingly, application under Order XXXIX Rule 1 and 2 CPC is disposed off.** Defendants are restrained to create any third party right or part with possession of the suit property during pendency of present suit.

Pleadings are complete. Ld. Counsel for both parties submit that admission/denial of document may be dispensed with. In terms of the pleadings between the parties following issues are framed:

1. *Present suit is not maintainable being barred by the law and due to the payment of deficient Court fees? OPD*
2. *Whether plaintiff is entitled for decree of declaration as exclusive owner of the suit property i.e. property bearing number 27, out of Khasra no. 16/14, situated at village Nangli, Sakrawati, Delhi, now known as Arjun Park (Block B), Najafgarh, New Delhi, admeasuring 50 sq. yards ? OPP*
3. *Whether plaintiff is entitled for decree of possession against the defendant? OPP*
4. *Whether plaintiff is entitled for decree of permanent injunction as prayed for? OPP*

5. *Whether there is any landlord-tenant relationship existed between the plaintiff and defendant? If affirmative, whether defendant has defaulted in payment of any rent and for what period? OPP*
6. *Whether plaintiff is entitled for any pendent-lite and future damages, if any, as prayed for? OPP*
7. *Whether plaintiff is entitled for the cost of the suit ? OPP*
8. *Relief.*

No other issue arises or pressed for.

Put up for PE on **30.03.2024**.

Let list of witnesses be filed by the both parties within 15 days, with advance copy to opposite side. The copies of evidence by way of affidavit of the witnesses be supplied to opposite side at least 15 days prior to the NDOH.

At this stage, Ld. Counsel for both parties submitted that main suit i.e. **CS No. 30/23** be combined with **counter claim no. 21/23** as subject matter of suit property is similar in both matters.

In view thereof, **CS No. 30/23** is combined with **Counter claim no. 21/23** for the purpose of evidence whereby evidence shall be lead in **CS no. 30/23** as per the issues framed in both matters and same shall be read as an evidence on behalf of the parties in each case.

(SHILPI M JAIN)
ADJ-05 (SW)/Dwarka Courts
New Delhi: 25.11.2023