

CS No. 16379/16
Geeta Devi vs. Raghuvansh Singh & Ors.

09.10.2019

**(Order on the application moved by the IO/SI Rajesh Kumar for
release of original documents)**

Present: None.

Order: -

1. This is an application moved by the IO/SI Rajesh Kumar from PS Dabri by which he has requested to supply him the original documents of both the parties filed in the present case. It is stated that a criminal case is pending between the parties in respect of property bearing Khasra No. 83/2 area measuring 500 sq. yards colony known as Geeta Colony, Palam Road, New Delhi. Both the parties have submitted their original documents pertaining to the said property in the present case which are required for the purpose of investigation in the aforesaid criminal case.
2. The plaintiff has contested the application by filing the reply in which it is contended that such a request is impermissible in view of bar created u/s 340 r/w section 195 Cr.P.C. It is stated that the present suit has been filed for declaration and injunction and PW-3 is under cross-examination. The plaintiffs have relied upon and proved the document dated 10.01.1979 of 200 sq. yards as Ex.PW1/8 (Colly) and also proved photocopy of the document dated 09.02.1984 of 200 sq. yards and of 100 sq. yards as Ex.PW1/11 (Colly). In the year 2016, while the evidence of the plaintiffs was in progress, the defendant no. 1 filed a criminal complaint alleging that the documents which are produced and relied upon in evidence by the

plaintiffs before this Court are forged and fabricated which led to the passing of the order dated 12.04.2018 by the Ld. Magistrate for registering of FIR. Accordingly, FIR No. 215/18 dated 03.05.2018 u/s 420/467/468/471/120-B IPC was registered at PS Dabri. It is contended that the documents Ex.PW1/8 and Ex. PW1/11 are proved and subjected to the cross-examination and this Court is yet to appreciate the probative value of the documents in question and the trial is under way and should not be permitted to be hampered. The police cannot be permitted to take the recourse sought for otherwise serious prejudice shall be caused to the plaintiffs. It is also contended that the application of the IO is vague as it does not specify which of the original documents are suspected to be forged for which investigation is required and no explanation is rendered as to why the original documents of both the parties are required by him. It is contended that trial in the present case is in progress and the original documents are required during course of trial on which exhibit number is to be given. In the absence of original documents, certified copies of such documents cannot be issued by the Certify Copy Branch and handing over such original to the IO at this stage would hamper the trial. The plaintiff has prayed for dismissal of the application.

3. The defendant nos. 1 to 3 have not filed any reply to the application and the Ld. Counsel of said defendants stated that the said defendants have no objection if the original documents filed by both the parties in this case are handed over to the IO for the purpose of fair investigation as same are required to be sent to the FSL.

4. I have heard the Ld. Counsel for the parties and perused

the record carefully.

5. The present suit has been filed by the plaintiffs for declaration and injunction against the defendants. The case is at the stage of plaintiff's evidence and PW-3 is under cross-examination.
6. From the aforesaid facts as discussed, it is revealed that a property dispute is going on between the parties for which a criminal case is also registered against the plaintiffs on the complaint of the defendant nos. 1 to 3. The Ld. Magistrate vide order dated 12.04.2018 directed the SHO PS Dabri to lodge an FIR as the Ld. Magistrate prima facie found the commission of forgery of documents by the accused persons of the property belonging to the complainant. Pursuant to the directions of the Ld. Magistrate, the SHO PS Dabri registered an FIR No. 215/18 u/s 420/467/468/471/120-B IPC
7. Now, by way of present application, the IO is seeking the release of original documents belonging to the plaintiffs and defendants in the present case pertaining to the suit property for the purpose of investigation in the aforesaid criminal case. The defendant nos. 1 to 3 have no objection in providing the original documents filed by both the parties in the present case. The plaintiffs have raised objection stating that the IO has not clarified that which documents are required for the purpose of investigation and further that the same is barred u/s 340 r/w section 195 of Cr.P.C.
8. It is apparent that there are allegations of forgery of documents by the complainant against the accused persons in the aforesaid criminal case. Therefore, in order to ascertain the genuineness of the documents, the original documents of both the

parties who are claiming their respective rights over the suit property on the strength of the said documents are required for the purpose of investigation by the IO. The IO may be requiring the said documents for sending the same to the FSL for the expert opinion.

9. In my considered opinion, the provisions of sections 340 and 195 Cr.P.C have no applicability as the IO is seeking the original documents for carrying out for further investigation in a criminal case. So far as the apprehension of the plaintiff that the trial of the case shall be hampered in case original documents are provided to the IO, is concerned, I do not see that if the original documents of parties are handed over to the IO, it will cause any delay in trial of the present case. The IO shall be required to file the certified copies of the original documents and on the certified copies, the exhibit mark can be put which are to be proved by the parties as per law.

10. In view of aforesaid discussions, there is no legal impediment or hurdle in providing the original documents of both the parties filed in the present case to the IO for the purpose of investigation in case FIR No. 215/18 u/s 420/467/468/471/120-B IPC PS Dabri as there are allegation of forgery of the documents. Hence, the application moved by the IO is allowed. The original documents filed by both the parties in the present case pertaining to the suit property be handed over to the IO subject to filing of certified copies thereof against receipt as per rules.

Now case is fixed for further cross-examination of PW-3 for **28.11.2019**.

(Balwant Rai Bansal)

ADJ-05(SW)/Dwarka Courts/09.10.2019