

22.02.2024

Present: Sh. Rajesh Aggarwal, Ld. Counsel for the plaintiff.  
Sh. N.K. Aggarwal, Ld. Counsel for the defendant no. 1, 2 and  
LRs of deceased defendant 3 along with defendant no. 1 and LRs  
of deceased defendant no. 3.

1. Ld. Counsel for the defendant no. 1, 2 and 3 submits that, his vakalatnama for defendant no. 1 and 2 is already on record. However, he would file his vakalatnama on behalf of LRs of deceased defendant no. 3 by NDOH.

2. Matter is listed for adjudication of application u/s 151 CPC filed on behalf of the plaintiff seeking admission-denial of documents filed on behalf of defendant no. 1, 2 and 3 along with fresh list of witnesses as well as for fixation of time schedule for the purpose of recording of evidence in time bound manner in compliance of direction issued by Hon'ble High Court of Delhi in WPC No. 213/2024 vide order dated 15.01.2024.

3. Submissions heard on behalf of both parties.

4. Briefly stated, that the present suit for Declaration and Injunction filed on behalf of the plaintiffs claiming LR of late Sh. Baleshwar Prasad qua two properties i.e.

Property no. 1 : RZ-2A, Pipal Wali Gali, Mahavir Enclave, New Delhi-110045, admeasuring 500 sq. yards (*hereinafter referred as 'Mahavir Enclave Property'*);

Property no. 2 : C-4E/301, LIG Flats, Janakpuri, New Delhi-110005  
(*hereinafter referred as 'Janakpuri Property'*)

5. It is the case of the plaintiff that, late Sh. Baleshwar Prasad was having five (5) daughters and he took responsibility of up-bringing his nephew namely Sh. Raghuvansh Singh (defendant no. 1 herein), who is son of younger brother of late Sh. Baleshwar Prasad. It is averred that, late Sh. Baleshwar Prasad purchased plot ad-measuring 100 sq. yards in Mahavir Enclave Property. It is further averred that, out of natural love and affection, late Sh. Baleshwar Prasad purchased another two plots ad-measuring 200 sq. yards and 100 sq. yards in Mahavir Enclave, New Delhi in the name of defendant no. 1 in the year 1980 by virtue of GPA, Agreement to Sell etc. At that time, defendant no.1 was minor.

6. It is further submitted that after attaining majority, fresh set of documents dated 09.02.1984 were executed by defendant no. 1 in favour of late Sh. Baleshwar Prasad i.e. GPA, Agreement to Sell, Receipt etc. Further with respect to the property no. 2 i.e. Janakpuri property, it is claimed to be acquired in the year 1986 out of the fund of late Sh. Baleshwar Prasad in the name of defendant no. 2 and 3. As such, late Sh. Baleshwar Prasad became owner of 500 sq. yards with respect to Mahavir Enclave Property.

7. *Per Contra*, it is a defence of the defendants that entire plaint is based on the vague submissions. It is further submitted, that entire suit property no. 1 of Mahavir Enclave, ad-measuring 500 sq. yards is owned by defendant no. 1 and his wife Neelam. It is further averred that, Mahavir Enclave property was purchased in three parts i.e. plot ad-measuring 200 sq. yards and 100 sq. yards was purchased by the defendant no.1 in the year

1980. Further, another land parcel of 200 sq. yards in Mahavir Enclave was purchased by the wife of defendant no. 1 in the year 1984. With respect to the Janakpuri property, Ld. Counsel for the defendants submits that, the same was purchased by defendant no. 1 and his wife in the name of defendant no. 2 and 3 and the plaintiff has no role. Lastly, it is submitted that, defendant no. 1 was major in the year 1980.

8. On the basis of submissions, vide order dated 11.08.2006 following issues were framed by the Hon'ble High Court of Delhi :-

*(i) Whether the properties bearing No.RZ-2A, Mahavir Enclave, Pipal wali Gali, New Delhi - 110045 and C-4E/301, LIG Flat, Janak Puri, New Delhi 110058 are the self acquired properties of the deceased Shri Baleshwar Prasad? OPP.*

*(ii) Whether the defendants No.1 to 3 have any right, title or interest in the aforesaid properties? OPD.*

*(iii) Whether the suit in respect of property bearing No.C-4E/301, LIG Flat, Janak Puri, New Delhi 110058 is barred by the provisions of Section 4 of the Benami Transaction Act, 1988? OPD.*

*(iv) Whether the plaintiffs are entitled to the relief of declaration and injunction as prayed for? OPP.*

*(v) Relief.*

9. Record reveals that, on 20.11.2006, both parties filed their list of witnesses. Plaintiff has also filed evidence by way of affidavit of four PWs. Record also reveals that, before framing of issues, admission-denial of documents was also done on 20.07.2006. **But, till date only three witnesses have been examined on behalf of the plaintiff.**

10. Another application U/s 151 CPC filed by the plaintiff seeking admission-denial of documents filed on behalf of defendant no. 1,2 and 3.

12. **Present case falls under the category of 20 oldest cases of this Court. It has been instituted in the year 2005 and despite the lapse of 19 years, matter is still at the stage of PE. Further, in terms of directions issued by Hon'ble High Court of Delhi, this court is bound to dispose the present matter in time bound manner.**

13. As per issues framed by Hon'ble High Court of Delhi, onus is upon plaintiff to prove above two properties in question as the self acquired properties. While onus is placed upon the defendants no. 1 and 2 to show their right, title or interest with respect to both suit properties as well as for objection under Benami transfer with respect to the Janakpuri property.

14. This Court carefully gone through the list of witnesses and took clarification from both parties with relevancy. Accordingly, following witnesses are dropped/disallowed from the list of witnesses.

S.N o.	Full Name and Complete Address	Facts sought to be proved by the evidence of the witness	Documents sought to be proved by the evidence of the witness	Allowed/ Disallowed
1.	Sh. Jitender Kumar r/o RZ-2A, Peepal Wali Gali, Mahavir Enclave, New Delhi – 110045	To prove facts from the year 1994 onwards regarding the ownership, possession and signatures of deceased Baleshwar Prasad etc. and to prove signatures of Raghuvansh Prasad Singh	To prove signatures of Baleshwar Prasad on title documents Annexure 13, Annexure 15, Annexure 16, Annexure 17, Annexure 20, Annexure 21 Annexure 30 and on police complaint dated 09.01.1999 and to prove signatures of Raghuvansh Prasad Singh (Defendant no. 1) on Annexure 21 and Annexure 7 (title documents)	Allowed as summoned witness.

		(Defendant no. 1)		
2.	Sh. P.K. Kumar c/o P Kumar & Associates, Arch / Draughtsman, Old courts, Kashmere Gate, Delhi – 110006 (M)- 9871921092, 9312375748, 011233868014		Deleted	N.A.
3.	Concerned Record Clerk, MCD, Dwarka, Sector 10, along with complete file of property no. RZ-2A, Mahavir Enclave, New Delhi – 110045		To prove documents Annexure 3, Annexure 12 (MCD inspection of the site etc showing the status of property in possession of deceased Baleshwar, being the owner), Annexure 13 (deceased acting as owner), Annexure 14 (assessment order by MCD), Annexure 15 (payments made by MCD by deceased), Annexure 26	Allowed
3.	Mahjabeen Shamim, advocate (Local Commissioner), Lawyers Chamber no. 218, Delhi High court, New Delhi (M) – 9811978974	To Prove her LC report dated 05.03.2007	Deleted	N.A.
4.	Sh. Ishwar Chand / Satpal s/o Late Sh. Meer Singh, Mahavir Enclave, Palam Village, New Delhi		To prove Annexure 9 (title document in favour of previous owner proving chain of documents), Annexure 10 (title document in favour of deceased), Annexure 6A colly (Documents in favour of defendants)	Allowed
5.	Concerned official from Tehsil Mehrauli for proving revenue record of 213/216 min khatauni, village Palam, Tehsil Mehrauli, Delhi		To Prove Annexure 8 (Khatauni title document in favour of previous owner showing chain of documents)	Allowed

	for khasra no. 83/2 of the year 1977 – 78			
6.	Record clerk, PS Dabri with list of tenants of property no. RZ/2A, Mahavir Enclave, Delhi		To prove Annexure 17 colly (List of tenants inducted by deceased Baleshwar, being owner and informed to police for police verification etc)	Disallowed
7.	Record clerk, PS Vikas Puri.		To prove complaint dated 09.01.1999 for the loss of some title documents mentioned in Annexure 7	Allowed
8.	Record clerk from the office of sub – registrar, Kashmere Gate		To prove certified copy dated 26.12.1973 (Part of Annexure 9) (Title document in favour of previous owner to show the chain of documents)	Allowed
9.	Record clerk from the office of Registrar, Birth & Death, MCD West Zone, New Delhi		Deleted	N.A.
10.	Record clerk from Electoral Registration officer 029, Nasir Pur Assembly Constituency, Delhi		To Prove part of Annexure 16 (Documents showing address of deceased Baleshwar and electoral roll etc, being the owner.	Disallowed
11.	Record Clerk from the Office of MTNL, 64, LSC, Mayapuri, New Delhi		To Prove the record of telephone no 25033307 with CA no. 2051033307 Part of Annexure – 20. (showing user of property by deceased Baleshwar being the owner)	Disallowed
12.	Record Clerk from Food and Supply Department Delhi Administration Mangla Puri		To Prove Ration Card Details of Deceased Baleshwar prasad with consumer card no. 33421 at Annexure – 24 (showing relationship between the parties, showing defendant no. 1 as son of deceased Baleshwar)	Disallowed
13.	Record Clerk from BYPL / DESU with respect to electric connection details in premises no. RZ/2A Mahavir		To Prove Annexure 30 (Affidavit saying deceased Baleshwar as owner & NOC to defendant for electric connection), Annexure 31 (Legal proceedings before consumer grievance cell).	Disallowed

	Enclave, New Delhi – 110 045.			
14.	Hari Kishan Bhatia Owner of Bhatia Brothers, RZ/2A Mahavir Enclave, Pipal Wali Gali, New Delhi 110045		To Prove part of Annexure 18 (Affidavit of tenants inducted by deceased Balashwar acknowledging him as owner) and Annexure – 22 (Colly). (Deceased Baleshwar raising construction in the year 1995 itself, being the owner)	Disallowed
15.	Om Prakash S/O Kunji Lal, Mahavir Enclave, New Delhi-45		To Prove part of Annexure – 22. (Deceased Baleshwar raising construction in the year 1995 itself, being the owner)	Disallowed
16.	Sh. Agheshwar Prasad Building material Supplier, Mahavir Enclave, New Delhi-45,		To Prove Annexure-22 (Colly). (Deceased Baleshwar raising construction in the year 1995 itself, being the owner)	Disallowed
17.	All India Women Welfare Association through its Mrs. Lata Makkar / Vinita Kumari, at C- 4E/301 Janakpuri, New Delhi.	To Depose on their tenancy created by Deceased Baleshwar Prasad	To Prove Annexure – 6 (Colly) and Annexure 25 (Rent agreement with deceased Baleshwar for Janakpuri property)	Disallowed
18.	Record clerk from Punjab National Bank Parliament Street alongwith bank account details of SB – 25677 in the name of Shri Balweshwar Prasad.		To prove part of Annexure 16. (Bank account of deceased Baleshwar showing the address / user of the property)	Disallowed
19.	Record clerk from record room Patiala house courts, alongwith record of case FIR no. 158/94 U/s 447/468/471 IPC PS Dabri		To Prove part of Annexure 16 (Legal proceedings relating to deceased Baleshwar at the given address)	Disallowed
20.	Sh. Neeraj Kumar Arora S/o. Sh. Amer Deo Singh R/o Mahavir Enclave, New		To Prove part of Annexure 18 (Affidavit of tenants inducted by Baleshwar, as owner of the property)	Disallowed

	Delhi-45. Defendant no. 4			
21.	Md. Shahid Owner of M/s Standard watch at Shop no. 3, RZ- 2A, Peepal Waali Gali, Mahavir Enclave New Delhi-45. Defendant no. 6		To Prove part of Annexure 18 (Affidavit of tenants inducted by Baleshwar, as owner of the property)	Disallowed
22.	Raj Kumar S/o Daulat Ram at Shop no. 4, RZ- 2A, Peepal Waali Gali, Mahavir Enclave New Delhi-45		To Prove part of Annexure 18 (Affidavit of tenants inducted by Baleshwar, as owner of the property)	Disallowed
23.	Handwriting Expert.		The plaintiff would move specific application to summon the witness for taking photographs and comparison of signatures with the admitted signatures of the defendant.	N.A.

15. Each party shall be given three opportunities/dates to lead their evidence within 3 months i.e. March to May, 2024 w.e.f. 01.03.2024. Plaintiffs shall conclude their evidence within 3 dates in March, 2024. While defendants shall conclude their evidence within 3 dates in April-May, 2024. Defendant is also directed to file evidence by way of affidavit for DWs within 2 weeks with advance copy to plaintiffs. It is made clear that no adjournment shall be given.

16. Since, admission-denial has already been done, application U/s 151 CPC has no merit, hence dismissed.

17. Record is voluminous and has not been arranged despite directions. Ahlmad is directed to arrange the same with the assistance of Ld.

Counsels for both parties on **29.02.2024 at 3.00 PM. Parties are directed to co-ordinate with Ahlmad for the same.**

18. Now, put up for PE on **01.03.2024 at 2.30 PM.**

**(SHILPI M JAIN)**  
**ADJ-05 (SW)/Dwarka Courts**  
**New Delhi:22.02.2024**