

CS No.451/17

Harbhajan Kaur Vs. Amardeep Kaur & Ors.

08.12.2017

Present: Plaintiff in person with counsels Sh. Sanjeev Bhatia and Sh. D.K. Sharma.

Sh. Vandana S. Bhandari, counsel for defendants with defendant no.1.

Replication to the written statement to the amended plaint filed on behalf of the plaintiff. Copy supplied.

Parties have not brought their original documents, therefore, admission-denial of documents is dispensed with. After conferring with the parties, I find no element of settlement.

On the basis of the amended plaint, written statement and replication, following additional issues are framed :

- i) Whether the suit qua the property bearing Plot No.29, Manas Kunj, Uttam Nagar, New Delhi is barred by law of limitation ? OPD.
- ii) Whether the suit is bad for non-joinder of the subsequent purchaser of the portion of the property bearing Plot No.29, Manas Kunj, Uttam Nagar, New Delhi ? OPD.
- iii) Whether the suit is maintainable qua the plot no. 29, Manas Kunj, Uttam Nagar, New Delhi in the absence of any challenge to the documents such as GPA, Agreement to sell, Letter of possession, Cash receipt, Affidavit and subsequent Sale Deed in favour of subsequent purchaser ? OPP.

: 2 :

At this stage, counsel for the defendant submits that there is a typographical error in issue no.1 framed on 02.08.2017 as the same has been framed in the negative.

It is submitted that the said issue should not be framed in the negative as the burden is on the plaintiff. Counsel for the plaintiff has no objection to the same if correction is made. In view of the aforesaid, the said typographical error is corrected and now, the issue no.1 is reframed as under :

(i) Whether the plaint has been signed and verified properly and the suit has been filed and instituted by a duly authorised person ? OPP.

In view of framing of the additional issue today, all the issues framed on 02.08.2017 are re-numbered as under :

ISSUES

i). Whether the plaint has been signed and verified properly and the suit has been filed and instituted by a duly authorised person? OPP.

ii). Whether the plaint does not disclose the cause of action ? OPD.

iii). Whether the suit has been under valued for the purpose of jurisdiction and proper court fees has not been affixed ? OPD.

iv). Whether the suit property bearing no. 28 (New no. WZ-15-C/3, Manas Kunj, Uttam Nagar, New Delhi, (as

cont...p/3

shown in red colour in the site plan) has been gifted by the plaintiff to her son Gurmeet Singh ? OPD.

v). Whether the late husband of defendant Gurmeet Singh during his life time and after his death defendant no.1 raised and completed the construction on the suit property with their own money, savings and income ? OPD.

vi) Whether the right of the plaintiff is extinguished and the plaintiff is not entitled to the relief on the principles of estoppel, waiver and acquiescence? OPD

vii) Whether the suit is barred by law of limitation qua the property bearing Plot No.29, Manas Kunj, Uttam Nagar, New Delhi ? OPD.

viii) Whether the suit is bad for non-joinder of the subsequent purchaser of the portion of the property bearing Plot No.29, Manas Kunj, Uttam Nagar, New Delhi. ? OPD.

ix) Whether the suit is maintainable qua the plot no. 29, Manas Kunj, Uttam Nagar, New Delhi in the absence of any challenge to the documents such as GPA, Agreement to sell, Letter of possession, Cash receipt, Affidavit and subsequent Sale Deed dated 01.10.2012 on 11.10.2012 in favour of subsequent purchaser ? OPP.

x) Whether the plaintiff is entitled to a decree of possession in respect of the suit property, as prayed for ? OPP.

: 4 :

- xi) Whether the plaintiff is entitled to a decree of permanent injunction, as prayed for ? OPP.
- xii) Whether the plaintiff is entitled to a decree for recovery of Rs. 2,25,000/- against the defendant, as prayed for ? OPP.
- xiii) Whether the plaintiff is entitled to a decree of damages and mesne profits, as prayed for ? OPP.
- xiv) Relief.

No other issue arises and is pressed for.

Ahlmad is directed to make an endorsement on the ordersheet dated 02.08.2017 that the issues have been re-numbered and re-structured today i.e. 08.12.2017.

Now, to come up for PE on **04.01.2018 at 2:00 PM**. List of witnesses filed on behalf of the plaintiff. Defendant is directed to file list of witnesses within seven days from today. Affidavit of all PWs be filed on record in one go on the date fixed under advance copy to the opposite party. Date has been given as per convenience of both the parties

(Mohd. Farrukh)
ADJ(SW)/Dwarka Courts
08.12.2017