

Ex: 1369/2018

Yashpal Chadha vs Hari Shankar

29.07.2022

Present: None for DH.

 None for JD.

1. Mater is listed today for appearance of the DH and giving his statement regarding the satisfaction of the decree. However, none has appeared on behalf of the DH.

2. One Shri Bharat Chabria has appeared with counsel Shri Vijay Sehgal and moved an application seeking cancellation of the sale deed registered vide registration no. 17853 in Book no.1, Volume no. 18914, pages 182 to 190, executed in favour of Shri Yashpal Chadha/DH in the present execution. Another application is filed on behalf of the applicant for stay of operation of the sale deed till the time the application is decided. Two more applications have also been filed by the applicant u/o 1 rule 10 CPC and u/s 340 CrPC. Copies for the opposite party are placed on record. Be given against proper receipt.

3. Submissions on the applications heard. Record carefully perused.

4. Today, another case titled as Bharat Chabria vs Yashpal Chada Civ. DJ no. 64/2022 is also listed on an application moved by the plaintiff. The said suit has been filed by the plaintiff/objector herein seeking a declaration holding that the decree and judgment dated 01.02.2018 passed by the Ld. Predecessor of this court is a result of fraud played by the defendants impleaded therein including the DH herein. This is the same decree and judgment qua which the present execution has

been filed.

5. Perusal of the said file shows that the DH herein alongwith his counsel Shri Sanjay Bhardwaj had appeared before the court in Civ DJ no. 64/2022 on 23.02.2022 and had sought time for filing the WS. Vakalatnama was also filed on behalf of the DH herein by the same counsel Shri Sanjay Bhardwaj, who has been representing the DH in the present execution. Thereafter, when the present execution was listed on 04.03.2022, before the court, Shri Sanjay Bhardwaj, advocate, appeared on behalf of the DH and moved an application u/s 151 CPC for appointment of Local Commissioner, for execution of the sale deed in the present execution. However, he did not inform the court about the filing of the suit challenging the decree itself despite the fact that he himself had appeared in the said suit on behalf of DH therein. Thereafter, DH was also summoned for his personal appearance for clarification regarding the payment of balance sale consideration as per the decree and he appeared before the court on 25.03.2022 as well as 01.04.2022 alongwith his counsel Shir Sanjay Bhardwaj. But both of them preferred to conceal the factum of filing of the civil suit challenging the decree itself from the court. This was despite their personal knowledge about the pendency of Civ. DJ no. 64/2022, which is evident from the order sheets and vakalanama on the said file. Due to their concealment, the orders were passed and finally the sale deed has been registered in favour of the DH through the Court Commissioner on 26.05.2022.

6. From the material available on both the files, it is amply clear that a fraud has been played upon the court in getting the sale deed of property bearing no. G-2, Old Mahavir Nagar, Main Nazagarh Road, New Delhi -110 018, admeasuring 130 square yards executed and registered on 26.05.2022 in favour of DH Shri Yashpal Chadha. Whether

the original decree pursuant to which this execution is filed is liable to be

set aside being also obtained by fraud is a matter of trial in the above mentioned Civil Suit No.64/2022. However, the conduct of the DH and the counsel Shri Sanjay Bhardwaj in not disclosing the pendency of the suit while proceedings further with the present execution is highly deprecated.

7. In these circumstances, it is directed that no further documents be executed or registered on the basis of sale deed executed in the name of the DH, registered vide registration no. 17853 in Book no.1, Volume no. 18914, pages 182 to 190.

8. The concerned Sub Registrar, SR II B, Janakpuri is directed to ensure that no further documents are executed on the basis of this sale deed.

9. A copy of this order be given dasti to the objector for onward transmission to the concerned Sub Registrar. The Sub Registrar is also directed to take the original sale deed in his possession and produce the same before the court on the next date of hearing in case it is produced before him for registration of a sale deed or any other document.

10. In the interest of justice, no adverse order is passed against the DH and his counsel for their non appearance today but in case they do not appear on the next date of hearing to answer the objections of the objector and explain their conduct, coercive steps shall be taken against them. In case the DH and Shri Sanjay Bhardwaj, Advocate, fail to explain their conduct, matter might have to be reported to appropriate authorities for their conduct is not only fraudulent qua the objector but is clearly reflective of fraud played upon the Court.

Re-notify for appearance of the DH and his counsel Shri

Sanjay Bhardwaj on 19.10.2022.

Copy of order be given dasti to the applicant Shri Bharat Chabria.

Shivali Sharma

Additional District Judge-03(West)

Tis Hazari Court/29.07.2022