

Ex. No. 1369/2018
Yash Pal Chadha
Vs. Hari Shankar

24.11.2022

Present: Sh. Ankit Kaushik, Ld. Counsel for DH Yashpal Chadha.
Applicant/objector Bharat Chhabria with Ld. Counsel Sh. Vijay Sehgal.
JD Hari Shankar in person with proxy counsel Sh. Aditya Sachdeva.
Sh. Gaurav Kumar Singh, Ld. Counsel for noticee Nishant Parashar.
Sh. K.B. Shankar, Ld. Counsel for noticee Sanjay Bhardwaj (advocate).

Fresh vakalatnama filed for DH Yashpal Chadha. Be taken on record.

Fresh vakalatnama filed for noticee Nishant Parashar. Be taken on record.

1. Status report received from SHO PS Tilak Nagar and SI Amit Kumar of case FIR No. 592/2022, PS Tilak Nagar, registered U/s. 448/380/420/468/471/467/143/149/150/120B/34 IPC, as per which accused Nishant Kumar Parashar was arrested in the said case, whereas, other suspects and witnesses are being examined.

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2. Objector Bharat Chhabria has filed an application U/s. 151 CPC for sealing of property no. G-2, area measuring 133 sq. yards, out of Khasra No. 64, Village Nangli Jalib, Old Mahavir Nagar, Main Najafgarh Road, New Delhi (New No. S-4/60, Mahavir Nagar, New Delhi), hereinafter referred to as suit property.

Application be taken on record. Copy supplied to all the counsels / parties present in Court today.

3. The suit property has been subject matter of multiple litigations of ownership and possession between multiple parties since decades. The history of multiple transactions pertaining to suit property are mentioned as below:

a) Original allottee of suit property was one Harnam Singh against whom purchaser Hari Shankar obtained decree of specific performance in the year 2006 and got it executed in execution, through Court.

b) Hari Shankar agreed to sell the suit property to Yashpal Chadha (DH herein) through multiple agreements dated 10/09/2008, 18/07/2011 and 16/07/2014.

c) Hari Shankar sold the suit property through registered Sale Deed dated 14/07/2011 to Bharat Chhabria (objector herein) and handed over its symbolic possession to him since there were tenants in occupation of suit property.

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d) In year 2008, a suit was filed by Harnam Singh against Hari Shankar for declaration of nullity of decree, in execution of which Sale Deed was registered in favour of Hari Shankar. The said suit is still pending. In the said suit, purchaser Bharat Chhabria filed application under Order I Rule 10 CPC and got impleaded as D-3.

e) Purchaser Bharat Chhabria filed a suit for possession against the tenants occupying the suit property, in the year 2018. In the said case, the Court ordered tenants to maintain status quo and not to create third party interest.

f) A suit for specific performance was instituted by Yashpal Chadha against Hari Shankar in the year 2016, in which Hari Shankar did not defend the suit. The suit got decided ex-parte vide judgment dated 01/02/2018 for specific performance. In execution of the said judgment/decreed, Sale Deed dated 26/05/2022 was executed in favour of DH Yashpal Chadha in execution proceedings.

g) On coming to know of execution of Sale Deed in favour of Yashpal Chadha, objector Bharat Chhabria filed objection in present execution as well as filed a suit for cancellation of Sale Deed, against Yashpal Chadha and Hari Shankar.

h) Yashpal Chadha sold the suit property to Nishant Parashar through Sale Deed dated 27/07/2022.

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i) Nishant Parashar allegedly forcibly trespassed into and encroached upon a part of the suit property regarding which FIR No. 592/2022, PS Tilak Nagar, U/s. 448/380/420/468/471/467/143/149/150/120B/34 IPC was registered against him and accused Nishant Parashar was arrested. Further investigation is in progress in the said case.

4. It is apparent to the Court that Hari Shankar wrongfully executed subsequent agreements to sell dated 18/07/2011 and 16/07/2014 with Yashpal Chadha despite sale of suit property to Bharat Chhabria through registered Sale Deed dated 14/07/2011.

5. Strangely, Yashpal Chadha filed suit against Hari Shankar as late as in May-2016 for specific performance of multiple agreements to sell dated 10/09/2008, 18/07/2011 and 16/07/2014. Defendant Hari Shankar filed written statement in the said suit but did not inform the Court that he had already executed registered Sale Deed dated 14/07/2011 in favour of Bharat Chhabria. Rather, Hari Shankar admitted in his written statement the entire suit of Yashpal Chadha and stopped attending the proceedings. For this reason, the suit was decided ex-parte vide judgment dated 01/02/2018, resulting in registration of Sale Deed in favour of Yashpal Chadha on 26/05/2022 in execution proceedings.

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6. It is yet to be determined if Hari Shankar alone committed the fraud or it was a collusive suit between him and Yashpal Chadha. The fact remains that even before institution of suit by Yashpal Chadha in the year 2016, Bharat Chhabria was registered owner of suit property by virtue of registered Sale Deed dated 14/07/2011.

7. Immediately after getting Sale Deed dated 26/05/2022 registered in his favour, Yashpal Chadha sold it to Nishant Parashar, who trespassed into it, whilst the suit property was still in occupation of tenants.

8. It is also apparent from the events that Bharat Chhabria took recourse to legal/judicial system for all available remedies in respect of suit property. On the other hand, Nishant Parashar forcibly trespassed into and encroached upon the suit property on account of which FIR was registered against him and he was arrested.

9. In order to protect the interest of all the innocent/rightful claimants of suit property, as an interim measure, this Court deems it very urgent and expedient to order the sealing of suit property, to the extent it is encroached upon by Nishant Parashar (accused of case FIR No.592/2022, PS Tilak Nagar) by forcible removal of occupants / tenants. The sealing shall be

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conducted by SHO PS Tilak Nagar immediately upon receipt of this order. The sealed portion of suit property shall remain subject to decision of Court on ownership rights of respective parties on merits.

10. **Issue urgent Court notice, accordingly, to SHO PS Tilak Nagar to seal suit property, to the extent it is encroached upon by Nishant Parashar (accused of case FIR No.592/2022, PS Tilak Nagar).**

Copy of this order be also attached with notice to SHO PS Tilak Nagar, for compliance.

The compliance report be filed by SHO PS Tilak Nagar in this Court by 05/12/2022.

Put up for reply and arguments of parties on 28/02/2023.

Court Observation: Multiple suits pending between several parties in respect of suit property need to be consolidated together so that it does not lead to variation of judicial orders in separate suits by different Courts.

**(VISHAL SINGH)
ADJ-03, WEST/DELHI
24.11.2022**