

Prem Sagar Sachdeva vs Sanjay Bhatia

30.10.2021

Present: Shri Nikhilesh Krishnan, Ld.counsel for the plaintiff.

None for defendant no.1 & 2.

Shri Varun Sharma, Ld.counsel for defendant no.3.

Shri Kashish Narang, Ld.counsel for defendant no.4.

Shri Sandeep Soni, Ld.counsel for proposed defendant
no.5/Corporation Bank.

1. Perusal of the record shows that defendants no.1 & 2 have not been appearing since long and no WS has been filed on their behalf. They are accordingly, proceeded ex-parte.

2. As regards defendant no.3/Bank of India it is submitted that a loan was given by defendant no.,3 to defendant no.1 & 2, which loan has already been assigned to defendant no.4/Edelweiss Assets Reconstruction Company Limited vide assignment agreement dated 30.09.2013. The said assignment agreement has already been filed on record by defendant no. 4 alongwith his WS. It is submitted on behalf of defendant no.3 that since the loan has already been assigned to defendant no.4 and defendant no. 4 is already a party in the suit, the presence of defendant no.3 is not required in the present suit. It is sub on behalf of the plaintiff that in view of the assignment agreement dated 30.09.2013, defendant no.3 may be dropped from the array of parties. In view of the submissions made, defendant no.3 is dropped from the array of parties. A noting to this effect is made in the memo of parties filed with the plaint under my signatures today.

3. There are two pending applications. First is the application u/o 6 rule 17 CPC r.w. order 1 rule 10 CPC for impleading defendant no.5/Corporation Bank (now merged with Union Bank of India vide merger agreement dated

04.03.2020). Reply to the said application has already been filed by the proposed defendant. Submissions on the application heard.

4. This is a suit for specific performance of an agreement to sell between the plaintiff and defendant no.1. The suit property in question has been mortgaged with the proposed defendant no.5 after the execution of the agreement to sell. Accordingly, proposed defendant no.5 is a necessary and proper party in the suit. The application under consideration is accordingly allowed and Corporation Bank (now merged with Union Bank of India vide merger agreement dated 04.03.2020) is impleaded as defendant no. 5 in the present suit. Let the amended plaint and memo of parties be placed on record and copy be supplied to defendant no. 4 & 5 within two weeks from today. Defendant no. 4 & 5 may file their amended WS/WS to the amended plaint within 30 days thereafter with advance copy to the opposite party. Replication be filed thereafter. Amended memo of parties be also filed with supply of advance copy to the opposite party. Since the Corporation Bank has already merged with Union Bank of India and is now known by the name of Union Bank of India. The said fact be also incorporated in the amended plaint as well as amended memo of parties.

5. The second pending application is u/o 7 rule 11 CPC filed by defendant no.4. Part submissions on the application heard. Time is sought for filing written submissions by defendant no.4. Also perusal of the record shows that defendant no.4 has not filed the mortgaged documents of the suit property being relied upon by him. Let the same be also filed with advance copy to the counsel for plaintiff as well as to ld.counsel for defendant no.5.

Re-notify for further submissions on the said application on 21.01.2022.

(Shivali Sharma)

ADJ-03/West Distt./THC/Delhi