

CS SCJ 1919/22
CNR NO.DLCT030038892022
SUNIL SINGH Vs. SUNDAR SINGH RAWAT

03.02.2024

Present : Sh. Pankaj Kumar, ld. counsel for the plaintiff.
Sh. G. C. Joshi, ld. counsel for the defendant no.1, 2 and 3.
Sh. Umang Mahendera, ld. counsel for the defendant
no.4/MCD through VC.

Site plan filed by the plaintiff. Copy supplied.

Arguments on the interim application heard.

In the application under order 39 Rule 1 & 2 CPC, the plaintiff is seeking temporary injunction against defendant no.1, 2 and 3 restraining them from conducting weddings, birthday parties and political party meetings in the RWA Office, Society Kamal Pur Residential Welfare Association, Khasra No.10/4, B-Block, Gali No.12, Kamal Vihar, Burari, Delhi, directions to remove rock pillar in front of the house of the plaintiff at Khasra No.8/25/1, B-Block, Gali No.12, Kamal Vihar, Burari, Delhi, permission to open door on the South side in the property of the plaintiff and directions to remove parking of the vehicles in front and South side of the house of the plaintiff.

The present suit is filed by the plaintiff against the defendants seeking permanent and mandatory injunction. It is stated that the plaintiff and his brother are the owners of the property at Khasra No.8/25/1, B-Block, Gali No.12, Kamal Vihar, Burari, Delhi. That the defendant no.1, 2 and 3 are Executive Members of the Managing Committee of an RWA Society. That defendant no.1, 2 and 3 are using office of the RWA for illegal commercial activities such as weddings, birthday parties, political

party meetings etc. That on every function, vehicles are parked outside the entry gate of the plaintiff blocking the entry gate of the plaintiff. That on regular basis, music is being played at high volume and till late night. That the defendant no.1, 2 and 3 have also constructed a rock pillar on the South side of the house of the plaintiff. That on occasions of the parties etc., *tandoor* is kept just outside the house of the plaintiff, guests drink alcohol and bad elements collect outside the house of the plaintiff. That defendant no.1, 2 and 3 are doing such commercial activities without having any valid permission. That the plaintiff has filed complaints before police as well as MCD/defendant no.4, but no action has been taken.

In the WS, defendant no.1 to 3 have denied the allegations. It is stated that plaintiff has not filed ownership documents of the plot and previous chain of documents. That the said property is owned by many persons. That since very beginning, plaintiff was not allowed to install gate towards the gate of the Society and the gate of the plaintiff is situated on the other side. That the present suit is counter blast to the suit filed by defendant no.1 to 3 against the plaintiff. The defendants no.1 to 3 have denied the allegations that commercial activities or any celebrations etc. are conducted at the office of the RWA.

Defendant no.4/MCD has also filed WS. It is stated that an inspection was carried out on 08.02.2023 and no commercial activity was noticed.

The plaintiff has filed copy of the conveyance deed executed by DDA in favour of the plaintiff and his brother Manoj Singh in respect of residential plot in khasra no.8/25/1, Gali No.12, B-Block, Kamal Vihar, Kamal Pur, Burari. Therefore, there is no force in the contention of the defendant no.1 to 3 that plaintiff is not the owner of the property. Perusal

of the photographs filed by the plaintiff alongwith the plaint clearly show that events such as parties and celebrations etc. are being carried out at the office of the defendant no.1 to 3, which is the office of the RWA. The defendants have denied the allegations but could not prima facie show that the photographs do not pertain to the said RWA office. Apparently, the defendants no.1, 2 and 3 have no commercial license to organize such events. The house of the plaintiff is adjacent to the said office of RWA pertaining to defendants no.1, 2 and 3 and organizing such events illegally without any commercial license, apart from being an offence, would be a public nuisance causing hardship to the plaintiff. The plaintiff has categorically pleaded that due to the activity of defendants no.1, 2 and 3, the plaintiff is suffering undue hardships since loud music is being played during the events organized by defendants no.1, 2 and 3, vehicles are being parked in front of the house of the plaintiff blocking his entry, tents/tandoor are being kept in front of the house of the plaintiff and some bad elements also drink liquor during such events in front of the house of the plaintiff. Accordingly, the plaintiff has been able to show prima facie case in his favour. Since, the defendant no.1 to 3 cannot organize events such as weddings, parties etc. without any license/due permission, plaintiff being the adjacent neighbour to the said office of RWA, would suffer irreparable loss if the defendants no.1 to 3 are not restrained from carrying out such events during the pendency of the present suit. Balance of convenience also found to be in favour of the plaintiff.

Accordingly, the application filed by the plaintiff under order 39 Rule 1 & 2 CPC is allowed to the extent that defendants no.1, 2 and 3 are restrained from carrying out any commercial activities such as organizing parties, weddings, celebrations etc. and also organizing

political party meetings, till the pendency of the present suit. Defendants no.1, 2 and 3 are also restrained from playing music at high volume and parking the vehicles in front of the entry gate of the plaintiff on the 16 ft. wide gali as shown in the site plan till the pendency of the present suit. The parties shall maintain status quo in regard to the pillar outside the said office of defendants no.1, 2 and 3.

Nothing in this order shall tantamount to an expression on the merits of this case.

It is also note worthy to observe that despite the complaints being filed with the police and defendant no.4/MCD, these authorities have failed to discharge their basic functions. The MCD is defendant no.4 in the present suit and the facts pleaded in the WS by defendant no.4/MCD in regard to the present suit are appalling. The plaintiff has filed photographs showing that public gatherings and parties etc. are being organized by defendants no.1, 2 and 3 but no submission has been made by defendant no.4/MCD except stating that during inspection, no commercial activity was found to be carried out at the said office of RWA. The defendant no.4/MCD has also not made any submission in regard to the complaints filed in regard to such activities being carried out at the said office of the RWA. Due to this lackluster approach of the police as well as MCD, the Courts are being flooded with cases such as the present suit. **Accordingly, it is directed to SHO PS Burari as well as to the concerned officials of defendant no.4/MCD to ensure that the directions passed in this order are complied with and no activity such as parties, weddings, any celebration etc. are being carried out at the office of RWA, Kamal Pur Residential Welfare Association at Khasra No.10/4, B-Block, Gali No.12, Kamal Vihar, Burari, Delhi-84,**

including playing music at high volume and gatherings of vehicles in front of the residential houses (including of the plaintiff), and if any violation of this order takes place, the authorities such as police as well as MCD shall take prompt action on the complaint made in this regard, failing which, this Court would be constrained to make a reference for contempt to the Hon'ble Delhi High Court.

Put up for further proceedings on **17.05.2024**.

Copy of order be given dasti to the plaintiff.

Copy of this order be sent to DCP North as well as to the concerned Deputy Commissioner of MCD for compliance.

Report be called from DCP North as well as Deputy Commissioner concerned of MCD about acknowledging the receipt of this order on the next date of hearing.

(Pranav Joshi)
ASCJ (Central)/Delhi
03.02.2024