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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 67/2021

LOKESH TYAGI & ANR.

..... Plaintiffs

Through: **Ms. Smita Maan, Advocate**

versus

ANISH TYAGI & ORS.

..... Defendants

Through: **Ms. Iti Agarwal, Advocate for D1 and D2**
Mr. Samir Malik, Advocate for D3 to D5

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI
(VIA VIDEO CONFERENCING)

ORDER

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01.02.2021

I.A. 1496/2021 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stand disposed of.

CS(OS) 67/2021 and I.A. 1495/2021 (under Order XXXIX Rules 1 & 2 read with Section 151 CPC)

1. Complaint be registered as a suit.
2. Issue summons in the suit and notice in the application.
3. Ms. Iti Agarwal, Advocate for defendants no. 1 and 2 and Mr. Samir Malik, Advocate for defendants No. 3 to 5, appear on advance notice and accept summons in the suit as well as notice in the application for defendants No.1 and 2 and defendants No.3 to 5 respectively.



4. Written statements to the suit and reply affidavits to the application shall be filed by the defendants within thirty days from today. The defendants shall also file affidavits of admission/denial of documents filed by the plaintiffs, failing which the written statements shall not be taken on record.
5. The plaintiffs are at liberty to file replication and rejoinder affidavit thereto within two weeks after filing of the written statements. The replication shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendants, failing which the replication shall not be taken on record.
6. List before the learned Joint Registrar on 19.03.2021 for completion of pleadings and admission/denial of documents.
7. List the suit and the application before the Court on 10.05.2021.
8. The present suit has been filed for cancellation of sale deeds dated 06.08.2020, recovery of possession and permanent injunction.
9. Learned counsel for the plaintiffs submits that in the present case, the plaintiffs and the defendants reached an agreement with respect to sale of the suit land wherein, total consideration was agreed at Rs.6.25 crore. She submits that plaintiffs in their bonafide belief and trusting the defendants signed some blank documents/NOC. It is further submitted that the plaintiffs were called to the office of Sub-Registrar on 06.08.2020 for the purpose of execution and registration of an agreement to sell however, by creating an emergency of shortage of time caused on account of COVID-19, without showing the documents, in fact, their signatures were taken on the sale deeds.



10. She submits, it is unfathomable that a person would execute a sale deed directly without executing any prior agreement to sell and that too on the basis of 'postdated cheques'. She further submits that even out of total sale consideration stated to be paid under those sale deeds, the plaintiffs have received only post-dated cheques for Rs.30 lacs only besides an amount of Rs.40 lacs paid by way of cash. The other cheques mentioned in the sale deeds were never handed over to the plaintiffs.

11. She has referred to the transcript of two conversations (one audio and one video) stated to be recorded on 19.10.2020 and 20.10.2020 between the plaintiffs and defendants No.1 and 2 wherein, the defendants have acknowledged the sale consideration to be Rs. 6.25 crores and payment of the balance sale consideration amount.

12. Learned counsels for the defendants have disputed the aforesaid submissions.

13. Considering the averments in the plaint and the documents filed, the plaintiffs have made out a *prima facie* case in their favour and in case no *ad-interim injunction* is granted, the plaintiff would suffer an irreparable loss. The balance of convenience also lies in favour of the plaintiff and against the defendants.

14. Consequently, till the next date of hearing, the defendants are directed to maintain *status quo* as to the title and possession of the suit property and further, not to create any third party rights in the suit property.

15. Compliance under Order XXXIX Rule 3 CPC be done within one week.

16. A fresh copy of the plaint along with the documents be supplied to the defendants during the course of the day.



I.A. 1495/2021 (under Order XXXIX Rules 1 & 2)

List on 25.03.2021.

MANOJ KUMAR OHRI, J

FEBRUARY 01, 2021

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Click here to check corrigendum, if any