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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 220/2019**

SOLOMAN ENGINEERS PVT. LTD.

..... Plaintiff

Through: Dr. Anurag Kumar Agarwal, Ms.
Manasi Bhushan and Mr. Umesh
Mishra, Advs.

Versus

DELHI DEVELOPMENT AUTHORITY & ORS. Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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15.05.2019

IA No.6181/2019 (for exemption)

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

CS(COMM) 220/2019 & IA No.6180/2019 (u/O XXXIX R-1&2 CPC)

3. The plaintiff has instituted this suit (i) for declaration that the plaintiff is the sole and absolute owner of industrial plot No.B-65/2, Wazirpur Industrial Area, Delhi and legally entitled to apply for conversion of leasehold right therein into freehold; (ii) for declaration that the rejection by the defendant No.1 Delhi Development Authority (DDA) of the application filed by the plaintiff for conversion of leasehold rights into freehold is null and void; (iii) for declaration that the cancellation by the defendant No.1 DDA of Conveyance Deed dated 29th January, 1992 executed by Nice Metal

CS(COMM) 220/2019

Page 1 of 5



2024.06.23 12:34:25

Works in favour of the plaintiff is null and void; (iv) for mandatory injunction directing the defendant No.1 DDA to grant a Conveyance Deed of freehold rights in land to the plaintiff; (v) for declaration that the claims of defendants No.2&4 to the property are not maintainable; and, (vi) for permanent injunction restraining dispossession, interference or mutation in favour of the defendants No.2 to 4.

4. It is the case in the plaint itself (a) that the leasehold rights in the land underneath the aforesaid property were granted in favour of K.L. Chawla and his wife Raj Rani Chawla as partners of Nice Metal Works; (b) that on K.L. Chawla and Raj Rani Chawla representing to defendant No.1 DDA that they had got incorporated the plaintiff company and were the only shareholders and directors thereof, the defendant No.1 DDA on the condition that the shareholding and directorship of the plaintiff company shall not be changed, transferred the lease in favour of the plaintiff company; (c) that Raj Kumar through whom the plaintiff company has instituted this suit acquired the said shareholding of K.L. Chawla and Raj Rani Chawla and became the director of the plaintiff company and came in control and possession of the premises and as attorney of Raj Rani Chawla, applied for conversion of leasehold rights into freehold; (d) that the said conversion was permitted and Conveyance Deed of freehold rights executed; (e) however, on subsequent complaint that Raj Rani Chawla was dead on the date on which Raj Kumar had given an undertaking that she was alive, the Conveyance Deed of freehold rights as well as in favour of plaintiff by Nice Metal Works were cancelled; (f) that the plaintiff company filed a writ petition and the defendant No.2 preferred an appeal against the orders



2024 JUN 23

therein and the Division Bench permitted the plaintiff company to apply afresh for conversion and directed the defendant No.1 DDA to consider the said application; and, (g) that the defendant No.1 DDA has rejected the said application.

5. It is clear from pages 92, 106 and 221 of Part-III-A file that the transfer by K.L. Chawla and Raj Rani Chawla, of shareholding of the plaintiff company in favour of Raj Kumar was without permission from defendant No.1 DDA and consequence as provided therein were to follow.

6. The defendant No.1 DDA inspite of cancellation of the Conveyance Deed is stated to have not taken any action for dispossession of the plaintiff company from the premises.

7. I have in the circumstances enquired the right of the plaintiff company to seek declaration of being the absolute owner of the property and have enquired from the counsel for the plaintiff company, whether not grant of such a declaration would make infructuous the other reliefs including the challenge to the order of the defendant No.1 DDA of rejecting the application for conversion filed in terms of orders of the Division Bench. The plaintiff company with Raj Kumar as shareholder and director, and for that matter no-one other than K.L. Chawla and Raj Rani Chawla as shareholders and directors, has no right to the property and cannot be declared the owner thereof. The entitlement at best of the plaintiff can be to challenge the rejection by the defendant No.1 DDA and once succeeds therein, challenge the rights claimed by the defendants No.2 to 4 in the property.



2024.06.23 12:34:25

8. The counsel for the plaintiff company states that his statement may be recorded that the declaration sought in prayer paragraph A shall be pressed only if the plaintiff company succeeds in impugning the order of rejection of the application for conversion of leasehold rights into freehold.

9. Subject to the aforesaid statement, the suit is entertained.

10. Issue summons of the suit and notice of the application for interim relief along with copy of the paper book and along with copy of this order so that the defendants file their written statements in terms of the statement made by the counsel for the plaintiff company today, by all modes including *dasti* and electronic returnable before the Joint Registrar on 25th July, 2019.

11. The counsel for the plaintiff company states that Raj Kumar and his brother Surender Kumar are the shareholders and directors of the plaintiff company and in control and possession of the property.

12. Till further orders, the plaintiff company as well as the said Raj Kumar and his brother Surender Kumar are restrained from alienating, encumbering or parting with possession of the property or the shareholding of the plaintiff company or inducting any other person as director of the plaintiff company.

13. The defendants namely (i) Delhi Development Authority, (ii) Yogita Baxla, (iii) Mahesh Pal Singh, (iv) Harish Chawla, (v) Peeyush Aggarwal, (vi) Rajesh Luthra and (vii) Ajay Singh also are restrained from alienating, encumbering or parting with possession of the property or disturbing the exclusive possession claimed by the plaintiff company of the property.

14. This shall however not come in the way of the claim of the defendants for recovery of *mesne* profits from the plaintiff company.



15. The provisions of Order XXXIX Rule 3 of CPC be complied forthwith.

16. List before the Court on 14th October, 2019.

RAJIV SAHAI ENDLAW, J.

MAY 15, 2019

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