



\$~27

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

+ **CS(OS) 191/2020**

SHARAD KUMAR RASTOGI

.....Plaintiff

Through:

versus

KAUSHAL RASTOGI & ORS.

.....Defendants

Through: Mr. Shubham Sakhuja & Mr. Utkarsh
Sharma, Advocates for D-3.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

10.12.2024

%

I.A. 41470/2024

1. The present application under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 (hereafter 'CPC') has been filed on behalf of the applicant/ defendant no. 2, seeking setting aside of order dated 27.07.2020, passed by this Court to the extent it pertains to the property mentioned in prayer (B) of I.A. No. 6086/2020, which was filed by the plaintiff seeking grant of ad-interim ex-party stay.

2. Prayer(B) of I.A. No. 6086/2020 is set out below:

“B. Grant ad-interim ex-parte stay in favor of Plaintiff and against the Defendants respectively thereby restraining the Defendants, their assigns, agents, employees or any other person acting on their behalf from transferring or creating any third party right in any part or whole of Property bearing No. FF-2 on the First Floor (without roof rights) measuring 1488 sq. ft. super area out of freehold built up property bearing No. ¼ situated at East Patel Nagar, New Delhi-110008”



3. Further, the relevant portion of order dated 27.07.2020 is extracted hereunder:

“6. In the suit, the plaintiff states that the defendant Nos. 1, 2 and 3 in a very systematic manner got transferred the rights in the said properties in their names and in December, 2019, after transferring all the properties, the elder daughter of the plaintiff i.e. the defendant No. 3 sent the plaintiff to the house of the younger daughter who is keeping and maintaining the plaintiff at the moment.

7. Considering the averments in the plaint and the nature of documents filed therewith, the plaintiff has made out a prima facie in his favour and in case, no ad-interim ex parte injunction is granted, the plaintiff would suffer an irreparable loss. The balance of convenience also lies in favour of the plaintiff. Consequently, the defendants, their agents, assignees etc. are restrained in terms of prayer (A), (B), (C) and (D) of IA 6086/2020 till the next date of hearing.”

4. The learned counsel appearing on behalf of the non-applicants have no objection if the present application is allowed.

5. This Court has heard learned counsel appearing on behalf of defendant no. 2 and perused the application.

6. The application is allowed and accordingly disposed of.

I.A. 41471/2024

7. The present application under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 (hereafter ‘CPC’) has been filed on behalf of the applicant/ defendant no. 1, seeking setting aside of order dated 27.07.2020, passed by this Court to the extent it pertains to the property mentioned in prayer (A) of I.A. No. 6086/2020, which was filed by the plaintiff seeking grant of ad-interim ex-parte stay.



8. Prayer (A) of I.A. No. 6086/2020 is set out below:

“A. Grant ad-interim ex-parte stay in favor of Plaintiff and against the Defendants respectively thereby restraining the Defendants, their assigns, agents, employees or any other person acting on their behalf from transferring or creating any third party in any part or whole of 5A/22, Ground Floor and Mezzanine along with Roof Rights at Ansari Road, Daryaganj, New Delhi”

9. Further, the relevant portion of order dated 27.07.2020 is extracted hereunder:

“6. In the suit, the plaintiff states that the defendant Nos. 1, 2 and 3 in a very systematic manner got transferred the rights in the said properties in their names and in December, 2019, after transferring all the properties, the elder daughter of the plaintiff i.e. the defendant No. 3 sent the plaintiff to the house of the younger daughter who is keeping and maintaining the plaintiff at the moment.

7. Considering the averments in the plaint and the nature of documents filed therewith, the plaintiff has made out a prima facie in his favour and in case, no ad-interim ex parte injunction is granted, the plaintiff would suffer an irreparable loss. The balance of convenience also lies in favour of the plaintiff. Consequently, the defendants, their agents, assignees etc. are restrained in terms of prayer (A), (B), (C) and (D) of IA 6086/2020 till the next date of hearing.

10. The learned counsel appearing on behalf of the non-applicants have no objection if the present application is allowed.

11. This Court has heard learned counsel appearing on behalf of defendant no. 1 and perused the application.

12. The application is allowed and accordingly disposed of.



CS(OS) 191/2020

13. List on 10.03.2025.
14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

DECEMBER 10, 2024/at

Click here to check corrigendum, if any