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

+ **CS(OS) 329/2019, I.A. 8795/2019, I.A. 6401/2022**

ANKIT GUPTA & ORS.

..... Plaintiffs

Through: Mr. Sanjiv Kakra, Senior Advocate
with Mr. Bheem Sain Jain and Mr.
Akash Madan, Advocates.

versus

VINEET JAIN & ORS.

..... Defendants

Through: Mr. S.K. Mishra and Mr. Amit
Mishra, Advocates for D1.
Mr. Vishal Maan, Advocate for D3,
D5 to D8 and D10.
Mr. Anil Kumar Batra, Ms. Devishah
Batra and Ms. Shashi Bala, Advocates
for D4a and D9.
Mr. Jasbir Singh Malik, Mr. Ganesh
Chandra Pandey and Ms. Chandni
Sharma, Advocates for applicant.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **13.05.2024**

I.A. 2848/2024 (under Order 1 Rule 10 CPC filed by Mr. Mahender Singh for impleading him as defendant in the present Suit)

1. The application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*), has been filed by Mr. Mahender Singh.



2. It is submitted in the application that he has purchased a part of Suit land admeasuring 157 sq. yards of land falling in the Suit Property bearing Khasra No. 52/11/2 (0-04) and 20 min. (1-03) admeasuring 1 Bigha and 7 biswas situated in the Revenue Estate of Village Mehrauli, New Delhi, shown in yellow colour in the Site Plan and the land admeasuring 85 sq. yards of land falling in the Suit Property, Khasra No. 52/11/2 (0-04) and 20 min. (1-03) admeasuring 1 bigha and 7 biswas situated in the Revenue Estate of Village Mehrauli, New Delhi, shown in sky colour in the Site Plan annexed to the Suit.

3. It is submitted that initially, Defendant No. 4-A and the defendant No. 9, were the owners and in possession of the total land admeasuring 306 sq. yards (153 sq. yards each) comprised in Khasra No. 52/19, situated in Bhawani Kunj, Vasant Kunj, New Delhi. The applicant Mr. Mahender Singh, has purchased the Suit land from the defendant No. 4-A and the defendant No. 9, on 22.04.2022, on the basis of General Power of Attorney (GPA), Agreement to Sell etc., for a total sale consideration of Rs.50,00,000/- + Rs.70,00,000/- equal to Rs.1,20,00,000/-, which has been duly paid through the bank transactions. It is further submitted that the applicant is in actual physical possession of the Suit Property. Hence, a prayer is made that he may be impleaded as a party in the present Suit.

4. Learned Senior Advocate appearing on behalf of the plaintiffs, has seriously contested the application and has relied upon **‘Gurmit Singh Bhatia vs. Kiran Kant Robinson & Ors’**. (2020) 13 SCC 773 wherein, it is submitted that the plaintiffs cannot seek impleadment of the defendants, on the basis of documents in the nature of Agreement to Sell (ATS) etc. After some objections, it is agreed by the parties that the applicant, Mr. Mahender



Singh allegedly being the successor of defendant No. 4-A and defendant No. 9, be impleaded in place of Defendant No. 4-A and defendant No. 9, after deletion of their names from the array of parties.

5. Without prejudice to the rights and contentions of the parties, the applicant Mr. Mahender Singh, is hereby impleaded as defendant No. 11 and the name of defendant No. 4-A and the defendant No. 9, is hereby deleted.

6. The application is allowed and disposed of accordingly.

I.A. 21038/2022 (under Order 1 Rule 10 read with Section 151 CPC filed by the plaintiffs for deletion of Smt. Veena Jain/defendant No. 2 from array of parties and substitution of Smt. Kavita Jain Goyal/defendant No. 10 as defendant No. 2)

7. The application under Order 1 Rule 10 CPC has been filed by the plaintiffs for the deletion of the name of Smt. Veena Jain, defendant No. 2, from the array of parties and substitution of Smt. Kavita Jain Goyal/defendant No. 10 as defendant No. 2.

8. It is submitted in the application that Ms. Kavita Jain Goyal has already been impleaded as defendant No. 10 as she has succeeded to the rights of the defendant No. 2.

9. **Submissions heard.**

10. Considering that Ms. Kavita Jain has already been impleaded as the defendant No. 10 as a successor in interest of the defendant No. 2, the name of the defendant No. 2 is hereby directed to be deleted.

11. The application is accordingly allowed and the amended memo of parties be filed by the plaintiffs, within 15 days.

12. The application is disposed of.



I.A. 6401/2022 (under Order XXXIX Rules 1 and 2 CPC filed by the plaintiffs)

13. The application under Order XXXIX Rules 1 and 2 CPC has been filed on behalf of the plaintiffs, seeking a *status quo* order regarding the possession and title of the Suit Property, till the matter is finally adjudicated.

14. Learned counsel appearing on behalf of the defendant Nos. 3, 5 to 8 and 10, have opposed the grant of the application, on the ground that the plaintiffs have wrongly claimed the Suit Property to be falling in Khasra No. 52/19, when in fact the Property is in possession of the defendants falls in Khasra No. 52/20 and 52/11.

15. Learned Senior Advocate appearing on behalf of the plaintiffs, points out that the demarcation has been done of the suit premises wherein a report has been submitted by the Tehsildar, dated 14.01.2019 *prima facie* stating that the Suit Property is in possession of the defendants, falls in khasra No. 52/11/2 Min. East (0-04) and 20 min East (1-03) admeasuring 1 Bigha and 7 Biswas situated in the revenue estate of Village Mehrauli, New Delhi.

16. Learned counsel appearing on behalf of the defendants, has submitted that since he was not a party at the time when the demarcation was got prepared, the same cannot be held binding against the defendants. Furthermore, the defendants have already challenged the correctness of the demarcation report in the present proceedings. It is also stated that they are in a settled possession, which cannot be uprooted or disturbed by filing of a Suit in 2019, when allegedly the Sale Deed in favour of the plaintiffs, was executed in 1986.

17. Learned counsel appearing on behalf of the defendant No. 1, argued that it is only a small portion of the property of which he is in possession



falls in the Suit Property, while the major portion of the land in his possession, which do not form part of the Suit Property and he cannot be restrained from the peaceful enjoyment of the properties in his possession, which is not a subject matter of the present Suit.

18. **Submissions heard.**

19. *Prima facie* there is a demarcation report of the Tehsildar, in regard to the persons in possession of the Suit Property and establishing that the Suit Property falls in Khasra No. 52/19 i.e. the Suit Property even though, it is challenged by some of the defendants. Though the Report has been challenged, but till the final adjudication in order to avoid dissipation of the Suit Property, all the parties are directed to maintain the *status quo viz a viz* the possession and the title of the Suit Property, till further orders.

20. The application is disposed of accordingly.

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21. Be listed before the learned Joint Registrar on 12.08.2024, for admission/denial of the documents.

NEENA BANSAL KRISHNA, J

MAY 13, 2024/RS