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

+ **RFA 842/2019**

SNEH SOOD & ORS

..... Appellant

Through: Mr.Rajesh Bhatia, Mr.Tanmaya
Mehta, Mr.Hemant Kakkar,
Advocates.

versus

MOHAN SINGH SUD

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **20.09.2019**

CM APPL.No.42169/2019, 42170 of 2019

Exemption allowed, subject to all just exceptions.

The application(s) stands disposed of.

CAV No.938/2019

The caveator is stated to be served on advance notice. None appears on behalf of the caveator.

RFA 842/2019 & CM APPL.Nos.42167/2019, 42168/2019

This appeal challenges the judgment dated 07.06.2019 passed in CS No.577863/2016 by the learned Additional District Judge-03, North West, Rohini Courts, Delhi. Vide the impugned judgment the suit for possession and mesne profit was decreed in favour of the respondent and against the appellant herein in respect of the property No.B-6/1, *Rana Pratap Bagh, Ground Floor, Delhi* (northern portion of property).

It is alleged by the learned counsel for the appellant the said property was purchased by the money provided by the defendant no.2,

Mr.Sandeep Sud and has shown me two bank certificates both dated 06.09.2019 stating interalia, eight bank drafts of Rs.45,000/- each being prepared from the bank account of defendant no.2 and of M/s.R.S.Computers, proprietorship firm of Mr.Sandeep Sud. The said eight bank drafts of ₹ 45,000/- each are shown in the sale deed dated 15.12.2005 as sale consideration. It is the case of the appellant the consideration was given Mr.Sandeep Sud to his uncle namely Mr.Mohan Singh Sud, the respondent to purchase the property in the name of the appellant and to complete and conclude the sale transaction but taken of benefit of the fact the father of defendant no.2 expired on 10.12.2005 and since he was busy in the rituals relating to the death of his father, the respondent got the sale deed registered in his name. It is also alleged remaining two drafts of ₹ 45,000/- each were also prepared from the cash provided by Mr.Sandeep Sud/defendant no.2.

It is submitted by the learned counsel for the appellant the certificates dated 06.09.2019 could not be proved on record before the learned Trial Court since the bank official who came to the Court had deposed the summoned record was in fact destroyed. However it was duly alleged in the written statement that the money used to purchase the property was provided by defendant no.2 to purchase it in his own name (viz. of defendant no.2).

The learned counsel for the appellant has even taken me to the cross-examination of PW1, the power of attorney holder of respondent herein. The relevant portion is as under:

“xxxxx The sale consideration of the suit property was

Rs.4,50,000/- and the same was paid by way of ten demand drafts of equal amount. I was with the plaintiff when eight of those demand drafts were purchased in Delhi. However, the remaining two demand drafts were purchased from Khanna, Punjab. I cannot tell any reason for purchase of two demand drafts from Khanna, Punjab.

XXXXXX

I cannot tell as to what was the credit balance in the Bank of Baroda account of plaintiff at the time of execution of sale deed. I do not know if Sh. Sandeep Sud also has account in Bank of Baroda. It is correct that the eight out of ten demand drafts were prepared at Bank of Baroda, Model Town.

I did not accompany the plaintiff to Khanna in the second week of May, 2005. It is a matter of record as to from which bank in Khanna the two demand drafts were issued. Plaintiff had stayed overnight Khanna with one of the relatives of his wife."

It is submitted the appellant has already filed a suit no.56/2010 for challenging the sale deed dated 15.12.2005 which is still pending before the learned Trial Court and though both the suits ought to have been tried together but unfortunately no such request was made by the counsel there, hence this suit was disposed of earlier to the said suit.

In the circumstances, issue notice to the respondent through all modes including *dasti* notice returnable on 30.09.2019 and in the meanwhile the *status quo* be maintained.

Order *dasti*.

YOGESH KHANNA, J.

SEPTEMBER 20, 2019

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