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

+ CS(OS) 661/2023

CHANDEEP SINGH SAWHNEY Plaintiff

Through: Mr. Tanmaya Mehta, Dr. Alok,
Ms. Riya Rathi, Mr. Siddharth
Narang and Ms. Aanchal,
Advocates.

versus

RAVINDER KUMAR AHUJA & ORS. Defendants

Through: Mr. Abhishek Singh, Mr. J. Amal
Anand, Mr. Elvin Joshy, Mr.
Vikram Singh Dalal, Ms. Alisha
Sharma, Mr. Shashwat Tyagi,
Advocates with defendant in
person.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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12.01.2024

I.A. 20720/2023 (for exemption)

The application for exemption is allowed, subject to the plaintiff granting inspection of the documents filed, as and when required to do so, or filing the original documents at the stage of admission/denial.

The application stands disposed of.

I.A. 22793/2023 (for additional documents)

Summons has not yet been issued in the suit, but this application has been filed by defendant No.1 for placing additional documents on record.

The application is not pressed by learned counsel for defendant

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No.1, who reserves the right of defendant No.1 to file all the required documents at the appropriate stage.

I.A. 22854/2023 (modification of the order dated 18.10.2023)

This is an application for modification of the order dated 18.10.2023, by which the plaintiff undertook to place the records of two prior suits on the record of the present suit by an order dated 16.11.2023. By an order dated 17.11.2023, the Registry was directed to place the records of both the suits on the record of this suit. That order has been complied with.

The application has, therefore, been rendered infructuous and is disposed of.

CS(OS) 661/2023, I.A. 20719/2023 (injunction), CRL.M.A. 31684/2023 (initiation of perjury), and I.A. 20721/2023

1. The plaintiff claims to be the owner of agricultural land admeasuring 18 Bighas 16 Biswas in Khasra Nos. 1732/2(1-12), 1732/3(0-16), 1732/1 (2-8), 1737(4-16), 1733/1/1(0-13), 1733/1/2(0-15), 1570(3-18) & 1571 (3-18) in village Chhattarpur, Farm No.4, Mulberry Avenue, DLF Chhattarpur Farm, New Delhi-110074. He has filed this suit for a declaration that two sale deeds, upon which defendant No.1 claims title to part of the same property, are illegal, null and void and for cancellation of the said sale deeds. The sale deeds in question are dated 24.11.1978 and 12.12.1978, and have been executed by one Smt. Suprabha Sawhney in favour of defendant No.1. The plaintiff has also sought an order of injunction against defendant No.1 from creating any third-party interest in the suit property, and against defendant Nos. 2 to 8 [stated to be the tenants in the suit property] from handing over



possession thereof to defendant No.1 or any person other than the plaintiff.

2. On the first date of hearing, an objection was raised on behalf of defendant No. 1 to the effect that prior proceedings between the parties [CS(OS) 182/2018 and CS (OS) 174/2019] have not been placed on record. The records of those suits have since been placed on record pursuant to further orders passed by this Court. In CS (OS) 174/2019, the present plaintiff was not a party. Although the suit concerns part of the same property, it was instituted by one Mr. Rakesh Sadhu against defendant Nos. 2 to 8 herein. Defendant No.1 was subsequently impleaded as defendant No.9 in the said suit and the suit was dismissed in default by order dated 05.10.2021. A subsequent application for restoration of the suit was dismissed on 03.02.2022. In CS(OS) 182/2018, there were two plaintiffs, one Mr. Kulwant Singh, son of late Mr. Balwan Singh Sindhu, and a person described as Mr. C. Sawhney, son of late Mr. Jagjit Singh (alias J. Sawhney). The defendants in the said suit were also defendant No.2 to 8 herein. Although it is the contention of learned counsel for defendant No.1 that the plaintiff herein was plaintiff No. 2 in the said suit, learned counsel for the plaintiff categorically states that he neither filed, nor authorised the filing, of the said suit.

3. The contention of learned counsel for the plaintiff is that the entire parcel of land has devolved upon him pursuant to the demise of his father (late Mr. Jagjit Singh Sawhney) and his mother (Shri. Narender Kaur), and through a series of transactions, emanating from a transfer by one Mr. Balraj Singh Sandhu. Late Mr. Jagjit Singh Sawhney and Mr. Balraj Singh Sandhu were, according to the plaintiff, partners in the shares of



80% and 20% respectively in a partnership firm by the name of M/s Shabnam. M/s Shabnam, in turn, acquired the land through two registered sale deeds dated 04.02.1987 and 24.02.1987 executed by one Mr. Surinder Ahuja, who in turn acquired different parts of the land from the original owners through diverse transactions. Suffice it to say for the present purposes, Mr. Surinder Ahuja traced his title in respect of two parts of the land through Ms. Suprabha Sawhney from whom defendant No.1 also claims to have acquired title.

4. Learned counsel for the plaintiff submits that the title deeds, which are the subject matter of the present suit, and upon which the claims of defendant No.1 are based, were executed after Ms. Suprabha Sawhney had already divested herself of most of the property in favour Mr. Surinder Ahuja. He also submits that, in reply to an application under the Right Information Act, 2005, the Government of NCT of Delhi has stated that the two sale deeds upon which defendant No.1 relies are “*not available*” in its records. He draws my attention to Sr. Nos. 10 and 11 of the RTI Application dated 17.06.2022 [Document-20 of the plaintiff’s list of documents], and the reply thereto [Document-21 of the plaintiff’s list of documents]

5. Learned counsel for defendant No.1 submits that he has various preliminary objections to the maintainability of the present suit, including objections of limitation, and as to the maintainability of the suit in the absence of the relief of possession. He also submits that the plaintiff has concealed various material facts.

6. Having heard learned counsel for the parties, I am of the view that the case is not of the nature that can be dismissed even without issuance



of summons. There are evidently rival claimants to the land in question, and the plaintiff has, *prima-facie*, produced documents in support of his contention.

7. Summons and notice in the applications are, therefore, issued to the defendants. Learned counsel for defendant No.1 waives formal service of summons and defendant No. 1 may file his written statement within 30 days from today. Summons and notice of these applications will be served upon defendant Nos. 2 to 8 by all permissible modes. *Dasti* service in addition is permitted. Affidavit of service be filed within one weeks.

8. Defendant No.2 to 8 will be entitled to file their written statements and replies to the applications within 30 days after service of summons.

9. The summons shall indicate that written statements must be filed within thirty days from the date of receipt of summons. The defendants shall also file affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.

10. The plaintiff is at liberty to file replications and rejoinders thereto within fifteen days after filing of the written statements. The replications shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendants, failing which the replications shall not be taken on record.

11. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

12. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

13. Learned counsel for defendant No.1 submits that his name appears in the revenue records. Until the next date of hearing, learned counsel for



defendant No.1 states that defendant No.1 will maintain *status-quo* as to title and possession of the suit property. Having regard to the *prima facie* case made out above, the parties are directed to maintain *status-quo* as to title and possession of the suit property until the next date of hearing.

14. The plaintiff today states that the question of who is in fact in possession of the property – whether defendant No.1 and/or defendant Nos. 2 to 8 is a matter of doubt. The said question can be resolved at the appropriate stage. For the present, it is sufficient to order that the *status-quo* will not be disturbed.

15. Learned counsel for defendant No.1 submits that he has filed CS DJ No. 2088445/2016 before the Court of Ms. Purva Sareen, ADJ-01, South, Saket Courts, Delhi, against defendant Nos. 2 to 8 for possession of part of the certain structures constructed on the said property. It is made clear that the present order will not affect proceedings in the said suit but any decree passed therein will not be executed without the leave of this Court.

16. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be complied with *qua* defendant Nos. 2 to 8 within one week from today and affidavit of compliance be filed within three days thereafter.

17. List before the Joint Registrar for completion of service and pleadings, marking of exhibits and admission/denial of documents on 23.02.2024.

18. List before the Court on 26.04.2024.

PRATEEK JALAN, J

JANUARY 12, 2024/SS/