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

+ **CS(OS) 5/2023**

PARVEEN KUMAR GUPTA & ORS.

..... Plaintiffs

Through: Ms. Shalini Kapoor, Mr. Triloki Nath
Garg, Ms. Sukriti Mago and Ms.
Divyanshi Saxena, Advocates

versus

BANKEY BIHARI GUPTA & ORS.

..... Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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05.01.2023

I.A. 37/2023 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

CS(OS) 5/2023

1. The instant suit has been filed on behalf of the plaintiffs seeking the following reliefs:-

“a) Pass a decree of declaration in favour of the Plaintiffs and against the Defendant Nos. 1 to 4, declaring registered Sale Deed dated 13.11.2000 (bearing Registration No. 2603, Book No. I, Volume No. 3238 on pages 196 to 201), executed by Defendant Nos. 3 and 4, i.e. duo impersonators, so called Shri Jivan Ram S/o Shri Devki Nandan and so called Shri Shambhu Nath S/o Shri Jagan Nath, Rio 3578, Gali No.2 Krishna Nagar Delhi in favour of Defendant No.1, Shri Bankey Bihari Gupta S/o Sh. Ram Prakash Gupta R/o A-191 Aruna, Shakanpur,



Delhi in respect of the "Subject Property" bearing No. 1449/B 1 Durgapuri Chowk, Loni Road, Shahdara, Delhi comprising of khasra Numbers 444, 445, 446 and 447 measuring approx. 6 Bhigas and 9 Biswas and also GPA dated NIL registered on 04.12.2020 as invalid, non-est, illegal, null and void and also declare and cancel both the documents i.e., the sale deed Dated 13.11.2000 as well as GPA Dated nil duly registered on 04.12.2020.

b) Pass a decree of permanent injunction in favour of the Plaintiffs and against the Defendant No. 1 and 2, restraining the Defendant No.1, 2, and their principals, agents, associates, servants, relatives, assigns, representatives etc. from selling, alienating, or creating any third-party interest of any nature in respect of the Subject Property.

c) Direct the Sub Registrar IV, Seelampur North East - I, to cancel registered sale deed dated 13.11.2000 (bearing registration no. 2603, book No. I, Volume No. 3238 on pages 196 to 201) from its records.

d) Direct the Sub Registrar VIII to cancel the GPA dated NIL in favour of Sandeep Kumar executed by Bankey Bihari Gupta @ BB Gupta being registered, vide registration no. 2967 in book no. 4, volume no. 4588 on pages 104-108 on 04.12.2020..."

2. Learned counsel appearing on behalf of plaintiffs submitted that the plaintiffs, being the legal heirs of original buyers namely Shri Jiwan Lal alias Jiwan Ram and Shri Shimbhou Nath are jointly the absolute and exclusive owners, in possession of the Property Bearing No. 1449/B-1, Durgapuri Chowk, Loni Road, Shahdara, Delhi along with land appurtenant thereto comprising the Khasra Nos. 444, 445, 446 and 447 of Village Mauja Sikdarpur, Shahdara, measuring approximately 6 (Six) Bhigas and 9(Nine)



Biswas. It is submitted that the Defendants no. 1 to 4, who in collusion and in connivance with each other and other known and unknown person(s)/associate(s), have concocted an elaborate scheme and have also created a forged and fabricated Sale Deed dated 13th November, 2000, registered on 15th November, 2000 and also the General Power of Attorney registered on 4th December, 2020, in an attempt to trespass and grab the "Subject Property" owned and in possession of the Plaintiffs and their predecessors in interest, without any interruption since 1947 till date.

3. Heard.
4. Let the plaint be registered as a suit.
5. Issue summons in the suit.
6. The written statement(s) shall be filed within thirty days from the receipt of summons. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiffs.
7. Liberty is given to the plaintiffs to file replication(s), if any, within thirty days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiffs, affidavit of admission/denial of the documents of the defendants be filed by the plaintiffs.
8. List before the Joint Registrar on 27th February, 2023 for completion of service and pleadings.
9. List before the Court on 28th July, 2023.

I.A. 36/2023 (u/O-XXXIX R-1 & 2 of CPC)

1. The instant application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of



plaintiffs seeking the following relief:-

“a. The Defendants No.1 and 2, their agents, representatives, etc. may be restrained by an ex parte ad- interim injunction from selling, alienating or creating any thirdparty interest on the basis of forged/ fabricated documents being Sale deed dated 13.11.2000 and GPA dated nil registered on 04.12.2020 and of any nature in respect of the suit property...”

2. Learned counsel appearing on behalf of plaintiffs submitted that on intervening night of 12th February, 2021 and 13th February, 2021, around 2.00-3.00 AM, some unknown miscreants were trying to trespass the Subject Property and were stopped by the patrolling Policemen. The Policemen had also detained the said miscreants. The Police and the Chowkidar, Mr. Narendra Shukla informed the Plaintiffs about the incident and the Plaintiffs immediately sent their representative (Manager) to visit the police station to gather all the information. Thereafter, the Plaintiffs No.1 and 10 lodged a complaint before the SHO, Jyoti Nagar, Police Station, Loni Road, Shahdara, Delhi on 13th February, 2021 against the miscreants for attempting to trespass the Subject Property. They were informed by the SHO that one Shri Bankey Bihari Gupta, (Defendant No.1) is claiming to be the owner of the Subject Property on the basis of an alleged registered Sale Deed dated 13th November, 2000. It was further informed that Shri Bankey Bihari Gupta (Defendant No.1) had executed a GPA registered on 4th December, 2020 in favour of one Shri Sandeep Kumar (Defendant No.2). The Defendants No. 1 and 2 before the police stated that the Subject Property was sold by Mr. Jivan Ram (Defendant No.3) and Mr. Shambhu Nath (Defendant No.4) in favour of Defendant No.1 vide alleged registered Sale Deed dated 13th November, 2000.



3. It is submitted that in continuation to the complaint dated 13th February, 2021, the Plaintiffs lodged another complaint dated 15th April, 2021 with the SHO, Police Station, Jyoti Nagar, Shahdara for the offence of forgery, criminal trespass, falsifying documents and dishonest misappropriation against persons namely Shri Bankey Bihari Gupta (Defendant No.1) and Shri Sandeep Kumar alias Sandeep Dahiya (Defendant No.2), and other unknown officials of SDM Office and other unknown persons, who in connivance with each other had hatched the conspiracy to grab the Subject Property. It is further submitted that the Subject Property is owned and possessed by the Plaintiffs being the respective legal heirs of the Plaintiffs.

4. Learned counsel appearing on behalf of plaintiffs submitted that the main accused Defendant No.1, after inquiry, was arrested by the police on 29th October, 2021. It is the finding of the investigating officer noted in the Final Report/Charge Sheet dated 6th May, 2022 filed by the Police Station Jyoti Nagar, that the Defendant No.1 has committed the offense punishable under Sections 467, 468, 471, 448, 511 and 120-B of the Indian Penal Code, 1860. It is further submitted that the Defendant No. 2, Defendant No. 3 and Defendant No. 4 have not been arrested by the Police till date.

5. It is submitted that the Defendants no. 1 to 4, who in collusion and in connivance with each other and other known and unknown person(s)/associate(s), have concocted an elaborate scheme and have also created a forged and fabricated Sale Deed dated 13th November, 2000, registered on 15th November, 2000 and also the General Power of Attorney registered on 4th December, 2020, in an attempt to trespass and grab the "Subject Property" owned and in possession of the Plaintiffs and their



predecessors in interest, without any interruption since 1947 till date.

6. Heard learned counsel appearing on behalf of plaintiffs and perused the record.
7. Issue notice.
8. Notice be issued to the defendants through all modes.
9. Reply(ies) be filed within four weeks.
10. Rejoinder(s) thereto, if any, be filed within two weeks thereafter.
11. A *prima facie* case is made out on behalf of the plaintiffs. Consequently, till the next date of hearing, *status quo* with regard to title and possession shall be maintained in respect of the suit property.
12. It is further directed that the defendants shall not interfere with the use, occupation and possession of the plaintiffs in the suit property. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be done within five days.
13. List before the Joint Registrar on 27th February, 2023 for completion of service and pleadings.
14. List before the Court on 28th July, 2023.
15. *Dasti*.

CHANDRA DHARI SINGH, J

JANUARY 5, 2023

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[Click here to check corrigendum, if any](#)