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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(OS) 785/2024
SUNIL DATTPlaintiff

Through: Mr. Siddhesh Kotwal and Mr. Tejasvi
Gupta, Advs.

versus

JYOTI MARWAH & ANR.Defendants

Through:

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **30.09.2024**

I.A. 40788/2024 (under Section 151 CPC seeking exemption from filing certified and dim copies/ true typed copies of annexures, etc.)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

I.A. 40787/2024 (under Section 151 CPC seeking leave to file lengthy synopsis and list of dates)

3. For the reasons mentioned in the application, the same is allowed.
4. Application stands disposed of.

I.A. 40786/2024 (by plaintiffs under Order XL Rule 1 CPC read with Section 151 CPC seeking appointment of a receiver by Court)

5. Issue notice to the defendants, by all permissible modes, returnable on 05.02.2025 before Court.
6. Let reply to the application be filed within a period of four weeks. Rejoinder thereto, if any, be filed within a period of four weeks thereafter.



CS(OS) 785/2024

7. The plaint be registered as a suit.
8. On filing of process fee, summons be issued to the defendants by all permissible modes.
9. The summons shall indicate that written statement must be filed within thirty days from the date of receipt of summons. The defendants shall also file an affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statement shall not be taken on record.
10. The plaintiff is at liberty to file replication thereto within thirty days after filing of the written statement. The replication shall be accompanied by affidavit of admission/denial in respect of the documents filed by the defendants, failing which the replication 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. List before the learned Joint Registrar for completion of service, pleadings, admission/denial of documents and marking of exhibits on 03.12.2024.
14. List before Court after completion of pleadings on 05.02.2025.

I.A. 40785/2024 (by plaintiff under Order XXXIX Rules 1 and 2 CPC read with Section 151 CPC)

15. Issue notice to the defendants, by all permissible modes.
16. The present suit has been filed seeking declaration, possession, permanent and mandatory injunction and *mesne* profits towards illegal occupation of the ground floor of property bearing Plot No. 17/43, Punjabi



Bagh, Delhi.

17. The learned counsel for the plaintiff submits that the property in question was purchased by the parents of the plaintiff namely Sh. Charanji Lal and Smt. Kaushalya Rani to the extent of 50%. The remaining 50% was purchased by the maternal uncle and aunt of the plaintiff namely, Sh. Sohan Lal and Smt. Janak Dulhari, respectively.

18. He submits that subsequently the ownership of the said property was transferred to the plaintiff and his brother namely, Sh. Ashok Kumar to the by execution of separate Gift Deeds by the parents, as well as, the maternal uncle and aunt of the plaintiff.

19. In support of his contention, the learned counsel has invited the attention of the Court to the Sale Deeds executed in favour of the parents of the plaintiff, as well as, his maternal uncle and aunt. Further, the attention of the Court has also been drawn to the Gift Deeds dated 10.07.2012 and 20.12.2012.

20. He submits that the defendant no.1 is the ex-wife whereas the defendant no.2 is the son of the plaintiff and the defendant no.1. He submits that the divorce had already taken place between the plaintiff and the defendant no.1 on 21.01.2000. The plaintiff is residing in U.K and he had authorised his maternal aunt namely, Smt. Janak Dulhari, to oversee the renovation work of the property in question, however, the defendant nos. 1 and 2 taking advantage of the fact that the plaintiff is not residing in India, forcibly entered into the suit property on 28.01.2020.

21. He submits that the maternal aunt of the plaintiff even filed a complaint to the police on 28.01.2020 thereafter, even an FIR was also registered being FIR No. 819/2020 against the defendant nos.1 and 2.



22. He draws the attention of the Court to the police proceedings in the said FIR to contend that an observation has been recorded by the police after an inquiry to the effect that the property belongs to the plaintiff and the defendant no.1 along with the defendant no.2 forcibly barged into the suit property despite the plaintiff having obtained divorce from the defendant no.1 in the year 2000.

23. He submits that a similar suit has been filed by the brother of the plaintiff with regard to the First and Second Floor of the property at Punjabi Bagh. In the said suit, the stand has been taken by the defendant nos. 1 and 2 that they have inherited the entire Punjabi Bagh property, however, it has not been divulged in the written statement by the said defendants as to how they have acquired the ownership of the said property.

24. In this factual backdrop, the learned counsel expresses grave apprehension that there is a possibility that the defendants might create third party interest in the suit property to frustrate the present suit.

25. Having regard to the fact that the plaintiff is the owner of the suit property and the defendant no.1 was divorced from the plaintiff as early as in the year 2000 and further regard being had to the observations recorded by the police in the FIR, I am of the view that the plaintiff has made out a *prima facie* case for grant of an *ad interim* order.

26. The balance of convenience also lies in favour of the plaintiff. I am also satisfied that the plaintiff will suffer an irreparable loss and injury if third party interests are created in the suit property by the defendants before the next date of hearing.

27. The defendants are, therefore, directed not to create any third party interest in the suit property, till the next date.



28. Provisions of Order XXXIX Rule 3 CPC be complied with *qua* the defendants within ten working days from today and affidavit of compliance be filed within a period of three days thereafter.
29. Defendants may file replies to the application within four weeks on receipt of notice. Rejoinder thereto, if any, be filed within a period of four weeks thereafter.
30. List before the learned Joint Registrar for completion of service and pleadings on 03.12.2024.
31. List before Court after completion of pleadings on 05.02.2025.

VIKAS MAHAJAN, J

SEPTEMBER 30, 2024/dss