

IN THE HIGH COURT AT CALCUTTA  
Ordinary Original Civil Jurisdiction

ORIGINAL SIDE

IA NO: GA/25/2025  
CS/286/1976  
BHUPESH KUMAR MAHAWAR  
VS  
MAHABIR PRASAD MAHAWAR & ORS.

BEFORE :  
THE HON'BLE JUSTICE BIVAS PATTANAYAK  
Date : 10<sup>th</sup> February, 2025

Appearance :

Mr. Prantik Garai, Adv.  
Ms. Aurin Chakraborty, Adv.  
Mr. Suman Adhikary, Adv.  
..for the defendant no.9(6).

Ms. Madhurima Halder, Adv.  
Mr. Sunil Kumar Singhanian, Adv.  
..for the defendant.

Mr. Rohit Banerjee, Adv.  
..Joint Receivers.

Mr. Chayan Gupta, Adv.  
...for the plaintiff.

The Court : This is an application seeking following reliefs :

- (a) Leave be granted to serve a copy of this application to Mr. Kamlesh Sharma of 1/101 Shanti Kunj, Alwar PIN 301 001 with regard to the instant applicant;
- (b) Leave be given to the Applicant to produce necessary document as and when the same is available with regard to Case No.46/78/2024 between Unwan Kailash Vs. Sachin pending before the Learned City Civil Judge and Judicial Magistrate, Rajgarh District, Alwar;
- (c) Necessary directions be passed not to give effect to the order dated January 6, 2025 passed by this Hon'ble Court in C.S. No. 286 of 1976 and the same be recalled;
- (d) An order be passed not to execute or convey the property in question in favour of Mr. Kamlesh Sharma till disposal of the instant application;
- (e) An order of injunction be passed restraining the Joint Receivers from depositing the said money into the account maintained by them;

- (f) *An order of injunction be passed upon Mr. Kamlesh Sharma not to deposit the balance sum of money;*
- (g) *Ad interim order in terms of prayer above;*
- (h) *Such further and/or other order or orders be passed and/or direction or directions be given as this Hon'ble Court may deem fit and proper."*

Mr. Prantik Garai, learned Advocate appearing for the applicant submits that on 20<sup>th</sup> December, 2024 the Civil Judge and Judicial Magistrate, Rajgarh District-Alwar, has passed an order of stay to keep the status of the plot as it is and not to transfer the disputed property to anyone else. As such, the Joint Receivers be restrained from proceeding further with conveyance of the property in question in favour of Kamlesh Sharma till the disposal of the application.

On the contrary, Mr. Chayan Gupta, learned Advocate, representing the plaintiff submits that series of orders have been passed in an application seeking direction for sale of properties of the partnership firm. Pursuant to order of this Court, the Joint Receivers caused publication of the properties to be sold out in auction. Upon such publication, several bids were submitted and Kamlesh Sharma has been found to bid the highest. By order dated 6<sup>th</sup> January, 2025 the sale of the property in question was confirmed in favour of Kamlesh Sharma. The previous orders passed in the application being GA/18/2022 were also communicated to all the concerned offices including the office of Tehsildar. The application filed by the applicant is only to stall the conveyance of the property of which the sale has already been confirmed in favour of the highest bidder. He seeks for dismissal of the application.

Mr. Rohit Banerjee, learned Advocate representing the Joint Receivers informs the Court that pursuant to order of this Court dated 6<sup>th</sup> January, 2025, the earnest money of the highest bidder has been deposited into the account of the Joint Receivers.

For the sake of convenience, it would be apposite to reproduce the series of relevant orders that have been passed in the proceedings.

- (i) On 16<sup>th</sup> May, 2024 in GA 20 of 2024, following order was passed in respect of certain properties to prevent any transfer of title:

*“The learned Joint Receivers in terms of the Report dated 20<sup>th</sup> March, 2024 expressed apprehension that the properties may be encroached upon, sold illegally and thus might slip out of the learned Joint Receivers. To prevent any transfer of title, the District Sub-Registrar, District – Mathura is directed not to register any document without prior permission of this Court in respect of the properties mentioned herein.*

*The Superintendent of Police, District – Mathura is to ensure that the properties are not encroached upon by any third party. Mr. Mahawar, local manager shall make an enquiry with the authorities mentioned herein in this regard.*

*Mr. Mahawar is also at liberty to lodge a complaint in the concerned police station as and when necessary in order to initiate actions against the trespassers, encroachers and illegal occupiers.*

*The Joint Receivers shall visit the place and shall file a further report as to the present status. A copy of this order may also be communicated by the learned Joint Receivers to the District Sub-Registrar, District - Mathura as well as to the Superintendent of Police, District – Mathura including the Municipal Authority, namely Nagarpalika for quick compliance.”*

- (ii) On 2<sup>nd</sup> August, 2024 another order was passed in respect of the property in question as well as other properties directing the parties not to sell, alienate, transfer or create a third party interest, except with the prior permission/leave of the Court on the property of the estate belonging to *M/s. Girdharilal Ghasiram*. The Joint Receivers were granted liberty to communicate the order to the

Municipal Authorities of respective zones, District and Sub-registrars of the respective Districts, Local Police Station where the properties were situated.

- (iii) The plaintiff in GA/18/2022 sought for direction for sale of the properties of the partnership firm, more fully described in paragraph no.18 of the application. Upon perusal of the valuation report, direction was issued for publication by order dated 4<sup>th</sup> November, 2024 modified on 13<sup>th</sup> November 2024. Thereafter, publication was made and 61 persons inspected the property in question and 11 bids were submitted. Upon perusal of the report filed by the Joint Receivers, the sale was confirmed in favour of Mr. Kamlesh Sharma on 6<sup>th</sup> January, 2025.

Therefore, from the aforesaid chronology of facts, it appears that the application seeking direction for sale of properties of the partnership firm was initiated in 2022. Thereafter, upon consideration of the valuation report, publication for sale was made and bids were submitted. Upon considering the report of the Joint Receivers, the sale has been confirmed in favour of Kamlesh Sharma. The order passed by the Civil Judge and Judicial Magistrate, Rajgarh on 20<sup>th</sup> December, 2024, as contended, is much later to the order passed by this Court in the proceedings. Upon enquiry by the Court, the learned Advocate for the applicant fails to apprise as to whether the learned Civil Judge and Judicial Magistrate was informed of the series of the orders passed in the proceedings for sale of the property-in-question.

That apart, the application does not contain the copy of the order passed by learned Civil Judge and Judicial Magistrate, if any. Further the Form (Annexure E) clearly records that the same is an information to the applicant and cannot be used as a witness in any Court. In view of the above, this Court finds that the application is bereft of particulars and hence does not merit consideration.

Accordingly, the application being GA/25/2025 stands dismissed.

Learned Joint Receivers is directed to communicate this order to the learned Civil Judge and Judicial Magistrate, Rajgarh, Alwar as well as to Tehsildar, Rajgarh, Municipal Authorities of respective zones, District and Sub-registrars of the respective Districts, Local Police Station where the properties were situated.

### **GA 18 of 2022**

The instant application is treated in the day's list.

On the prayer of Mr. Gupta, learned Advocate for the applicant, the order dated 6<sup>th</sup> January, 2025 is modified to the extent that the time period for depositing the entire balance amount by the party i.e. Kamlesh Sharma in whose favour sale has been confirmed, is extended for a period of six weeks from the date of communication of this order, failing which, the confirmation of sale in favour of Kamlesh Sharma shall lapse.

An inadvertent typographical error has crept into the order dated 6<sup>th</sup> January, 2025 mentioning the name of the highest bidder as "*Mr. Kamlesh Sharma*" instead of "*Kamlesh Sharma*". The name of the highest bidder in the

aforesaid order be read as “*Kamlesh Sharma*” instead of “*Mr. Kamlesh Sharma*”.

**GA 25 of 2025**

On the prayer of learned Advocate for the applicant, leave is granted to correct name of the person in whose favour sale is confirmed in the prayer portion of the Notice of Motion.

(BIVAS PATTANAYAK, J.)