OD-11+12

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

CS/118/1987

CHANDRA KALA DEVI CHOUDHRY & ORS.
VS
DHARAMCHAND CHAUDHRY

WITH

IA NO. GA/4/2023
In CS/1166/1987

NARAYAN PRASAD CHAUDHRY & ORS
Vs
DHARAM CHAND CHAUDHRY

BEFORE:
The Hon'ble JUSTICE SUGATO MAJUMDAR
Date: 1st December, 2023

Appearance:
Mr. Surajit Dasgupta,Adv.
Mr. Jaydeep Guha,Adv.
...for the Plaintiff.

Mr. Suman Dutt, Adv.
Mr. Mohit Gupta, Adv.
Mr. A. P. Agarwalla, Adv.
...for the Defendant.

The Court: GA No. 4 of 2023 is filed by the Plaintiff No. 2 alleging that the Defendants violated an order of injunction previously passed by this

Court. It is contended that in terms of an Order dated 7th March 1988 the Respondents were restrained from dealing with or disposing of or encumbering the personal or self-acquired properties of Gajanand Chaudhry, namely, proportionate shares in premises no. 2/2B, Harington Street, Calcutta, in Chaudhry Bhawan at Sadabad Gate, Hathras, plots of land of Ganjuanli measuring 11 Bighas 2 Biswa and 17 Biswans and (iv) Plot near bamba, measuring 1 Bigha 10 Biswa. In the first week of February 2023 the Petitioner visited Gijrouli, Hathras, Uttar Pradesh and came to learn that the Defendant no. 1 entered into various agreements for sale and deeds of conveyance in respect of the plots situated at Gijrouli, Hathras, Uttar Pradesh in favour of third parties. In view of such infringement and/or violation of the order of injunction the instant application is made.

The Defendant no. 1 filed an affidavit-in-opposition and resisted the claim by raising plethora of facts, and defence denying allegations.

Both the parties filed written notes of arguments.

It is alleged that agreements for sale and deed of conveyance were executed in respect of plots situated at Gijrouli, Hathras. Certified copies of deed of agreements with english translations are annexed with the application. Order of injunction dated 10.12.1987 was passed restraining the Defendant nos. 1, 2, 3 and 4 from dealing with, disposing of , alienating, encumbering and parting with possession all the assets and properties mentioned in Schedule “B” and “C” of the application. In Schedule “B” the first property is house at Bichuabali Gali, Hathras. The second property is House at Gali Burjiyan Mursan Gate, Hathras. The third property is house at

703 Chakki Bazar, Hathras and the fourth one is shop at Chakki Bazar, Hathras along with other properties. In the petition it is alleged that properties which were sold in violation of order of injunction are at Gijrouli, Hathras. The copy of the deed discloses the description of the properties. There is no property located at Gijrouli, Hathras and description of property contained in Annexure "B", namely, houses at Bichuabali Gali, Hathras is different from the description contained in alleged deed. It is argued by the Learned Counsel for the Plaintiff that house at Bichuabali Gali, Hathras and that at Gijrouli, Hathras are same. There is the mistake by inadvertence and typographical error. However, such typographical error was not rectified. Description of property remains uncertain and vague. In view of such vagueness in description of property order of injunction cannot be passed. This apart, appropriate prayer to redress violation of injunction order in terms of Order XXXIX Rule 2A of CPC is absent.

The Plaintiffs another prayer is injunction against raising any claim by the Defendant no. 1 in respect of properties. This prayer is opposed to the public policy and principles of law. A party can raise any claim; he cannot be stopped from agitating his claim in any court of law; such a prayer of injunction goes against basic principle of law and public policy.

In view of discussion made above the application, namely, GA 4 of 2023 is not tenable. The facts and circumstances of this case do not justify, grand of order of injunction as prayed for. In view of discrepancy in description of property it cannot be considered that a, *prima facie*, case is made out. Accordingly, GA 4 of 2023 is dismissed without any costs.

The Registrar, Original Side, shall submit a report on returnable date as to whether summons were served all the Defendants and whether all the Defendants filed written statements.

Let the matter appear in the list on 5th January, 2024.

(SUGATO MAJUMDAR, J.)