

Harish Chandra Rastogi vs Hari Shankar Rastogi on 13 September, 2022

Author: Neena Bansal Krishna

Bench: Neena Bansal Krishna

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 183/1970

HARISH CHANDRA RASTOGI

Through:

Mr. Sonal Sinha, Advocate
Roop Kishore Rastogi, LR
plaintiff.

versus

HARI SHANKAR RASTOGI

Through:

Ms. Aparajita Sinha, Advocate
LRs of D-1 & 2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% 13.09.2022 I.A. 9942/2019 (U/O 40 Rules 1 & 2 r/w Section 151 of CPC, 1908)

1. The present application has been filed under Order 40 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 on behalf of the applicant, Girish Aggarwal, the Receiver.

2. It is submitted in the application that the applicant, Girish Aggarwal was appointed as the substitute Receiver in respect of Flat No. 803, Jeevan Sahakar Building, Malabar Hills, Mumbai and was directed to retain the keys of the same till the parties jointly sell the property, vide Order dated 21st March, 2013.

3. It is submitted that the applicant had received the purchase offer for Rs. 8,00,00,000/- for the Mumbai Flat and Rs. 2,50,00,00,000/- for the Property bearing No. 45, Prithivi Raj Road, New Delhi.

4. It is submitted that the applicant, Girish Aggarwal, the Receiver wrote a Letter to the parties seeking status of the said two properties and also visited Mumbai three times to find out the status of the Flat at Mumbai and Property at Prithivi Raj Road, New Delhi, but no response has been given by the parties. Hence, the present application has been filed.

5. A prayer has, therefore, been made seeking issuance of notice in the present application to the parties disclosing the present status of two properties i.e., Flat No. 803, Jeevan Sahakar Building, Malabar Hills, Mumbai and 45, Prithivi Raj Road, New Delhi and also remuneration be paid for the

services rendered by the applicant as Receiver from the year 2013 till the discharge of the Receiver.

6. Learned counsel for the plaintiff submits that the Flat No. 803, Jeevan Sahakar Building, Malabar Hills, Mumbai already stands sold. The legal heir, namely, Roop Kishore Rastogi of petitioner had no concern, but he has an interest in the Property bearing No. 45, Prithivi Raj Road, New Delhi.

7. It is also informed that the Receiver has died. Accordingly, the present application under Order 40 Rules 1 and 2 read with Section 151 of Code of Civil Procedure, 1908 has become infructuous.

8. Dismissed as infructuous.

9. The parties are at liberty to move an appropriate execution proceedings for execution of the final Decree of partition dated 21st March, 2013, in accordance with law.

I.A. 8493/2022 (U/O XXII Rule 4(1) r/w Section 151 of CPC, 1908)

1. The present application has been filed under Order XXII Rule 4(1) read with Section 151 of the Code of Civil Procedure, 1908 on behalf of the applicant, Deepa Rastogi, LR of defendant No. 2 seeking her substitution in place of LR No. 1 of the defendant No. 2 i.e., Late Mrs. Madhu Bala Rastogi.

2. Since, the final Decree has already been passed, there is nothing pending before this Court. The application is accordingly dismissed with liberty to the parties to seek appropriate remedy by way of Execution or otherwise in respect of final Decree of Partition dated 21st March, 2013.

3. Notice issued, if any, in the present application stands cancelled.

4. Pending applications, if any, are dismissed.

NEENA BANSAL KRISHNA, J SEPTEMBER 13, 2022 S.Sharma