

Mr. Rakesh Sadhu vs Smt. Sahida Ahmad & Ors on 18 September, 2020

Author: Mukta Gupta

Bench: Mukta Gupta

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CS(OS) 174/2019
I.A. 4614/2019 (under Order XXXIX Rule 1 and

MR. RAKESH SADHU

Represented by:

Mr. Manj
Advocate

versus

SMT. SAHIDA AHMAD & ORS.

Represented by: Mr. Bharat Sareen,
defendant/respondent
8.

None for defendant
Nos.4,5 and 6.

Mr. Abhishek Singh
respondent No.9.

Mr. Rajesh Kumar A
Advocate for respondent

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA
ORDER

% 18.09.2020 The hearing has been conducted through Video Conferencing. I.A.8289/2020 (under Order XXXIX Rule 2A CPC r/w Section 11 and 12 Contempt of Court Act -by plaintiff)

1. The present application has been filed by the plaintiff/petitioner/applicant impleading the eighth defendants as respondents besides Ravinder Kumar Ahuja as respondent No.9 and Inspector Harinder Singh, SHO Police Station Mehrauli as respondent No.10.

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2. The case of the plaintiff/applicant is that the applicant has instituted the present suit in which this Court vide order dated 29th March, 2019 restrained the defendants in the suit, i.e., respondent Nos.1 to 8 herein from selling, alienating or transferring the suit property or parting with possession of the same till further orders.

3. According to the applicant/plaintiff, the defendant/respondent No.9 in connivance with the police officials of Police Station Mehrauli have trespassed into the land and not only dispossessed and removed the articles of the plaintiff/applicant but also started unauthorized construction thereon.

4. Learned counsel for respondent No.9 states that the present suit is a collusive suit between the plaintiff and defendant Nos.1 to 8. The claim of the defendant Nos.1 to 8 before the learned Civil Judge was also that they were the legal heirs of the care taker of the suit property, namely, Rafiq Ahmed, who was inducted as Chowkidar-cum-Caretaker in the year 1980 and that Rafiq Ahmed died on 28th February, 2016.

5. Learned counsel for respondent No.9 states that without impleading respondent No.9, who is the actual registered owner of the suit property since 1978, this collusive suit has been filed and since the respondent No.9 is in possession as also has the ownership of the suit property, the averments in the application are incorrect.

6. Considering the contentions of learned counsel for respondent No.9 which is also fortified by order dated 17th December, 2019 passed in CS No.8445/2016 titled Ravinder Kumar Ahuja vs. Mst. Sahida & Anr., this Court finds no ground to issue show cause notice to the respondent Nos.1 to 10 as to why proceedings under the Contempt of Courts Act be not initiated against them. However, at this stage, this court is issuing a simple notice so Signing Date:18.09.2020 21:46:08 This file is digitally signed by PS to HMJ Mukta Gupta as to have the reply affidavits of the respondents to find out the correct factual position.

7. Issue notice of the application to the respondents.

8. Learned counsel for respondent Nos.1,2,3, 7 and 8 accepts notice.

9. Learned counsel for respondent No.9 and respondent No.10 also accepts notice.

10. Notice be now issued to respondent Nos.3,4,5 and 6 on the plaintiff/applicant taking steps through e-mail, SMS, WhatsApp, speed post and courier, returnable before the Court on 15th January, 2021.

11. Reply affidavits be filed within four weeks.

12. Rejoinder affidavits within four weeks thereafter.

13. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

SEPTEMBER 18, 2020 vk Signing Date:18.09.2020 21:46:08 This file is digitally signed by PS to HMJ Mukta Gupta