

Leena Imran & Anr vs Deeba Ikram @ Deeba Khan & Ors on 7 February, 2023

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CS(05) 117/2021 & I.A. 15939/2022
LEENA IMRAN & ANR.

Through: Mr. M. Tarique Siddiqui and Ms.
Jyotsna Bhardwaj, Advocates

versus

DEEBA IKRAM @ DEEBA KHAN & ORS.

Through: Counsel for D-1 (Appearance no
given)
Mr. Vishnu Sharma Advocate for
Mr. Amiet Andlay and Mr. Arun
Sharma, Advocates for D-4

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH
ORDER

% 07.02.2023 I.A. 19874/2022 (Interim Injunction and Early hearing)

1. By way of this application under Section 151 of the Code of Civil Procedure, 1908, (hereinafter "CPC") the plaintiffs seek the following reliefs:-

"(a) Grant interim injunction as sought by plaintiffs in application under Order 39 Rule 1 & 2 CPC being I.A. No. 2560/2021; and/or

(b) Fix an early date of hearing for the disposal of the application under Order 39 Rule 1 & 2 CPC being I.A. No. 2560/2021..."

2. The prayer (b) in the instant application had already been adjudicated upon by this Court when the matter was listed on 28 th November, 2022 and was thereby, listed regularly as and when the matter was fixed for hearing. Hence, prayer (b) of the instant application is rendered infructuous.

3. Learned counsel appearing on behalf of plaintiffs submitted that despite the pendency of I.A. No. 2560/2021 under Order XXXIX Rules 1 and 2 of CPC, the Court below has taken cognizance in the FIR bearing No. 140/11 and passed the following order:-

"...7.11. In FIR no.140/11, on 19.05.2015 defendant no.1 herein filled application u/s 456 Cr.P.C. in the court of Ms. Sheetal Choudhary Ld. MM-10 (SE) for restoration of possession of property consisting of one room with attached bathroom at First Floor of said property. On 01.06.2015 Ld. MM -10 (SE) issued notice to Imran Ahmad to vacate the said property and handover the peaceful possession of the same to defendant no.1..."

4. Subsequent thereto, Mr. Imran Ahmad, who happened to be in the possession of the suit property, filed a Criminal Revision Petition bearing CR. No. 52/2015 (new no. 204164/2016) before the learned Sessions Court, South East, Saket Court assailing the aforesaid order. The learned Sessions Court, vide order dated 5th September, 2022, decided that there is no illegality or infirmity in the said impugned order. The said order is appended as Document-1 to the instant application.

5. It is further submitted that in view of the aforesaid order(s) passed by the learned Metropolitan Magistrate, South East, the defendant no. 1 is trying to take the possession of the suit property, which is admittedly in possession of the Applicants/LRs of plaintiffs.

6. In light of the foregoing submissions, learned counsel for the plaintiffs submitted that the status quo may be maintained till the disposal of the application bearing I.A. No. 2560/2021 under Order XXXIX Rules 1 and 2 of CPC.

7. Per contra, learned counsel appearing on behalf of defendant no. 1 vehemently opposed the instant application. However, he has fairly conceded the fact that I.A. No. 2560/2021 under Order XXXIX Rules 1 and 2 of CPC is still pending.

8. Learned counsel appearing on behalf of defendant no. 4 does not oppose the prayer made in the instant application.

9. Heard learned counsel for the parties and perused the record.

10. It is an admitted fact that the first floor of the suit property is in possession of the applicants/plaintiffs and I.A. No. 2560/2021 under Order XXXIX Rules 1 and 2 of CPC is still pending for adjudication. The plaintiffs' prayer is limited to the extent that till the disposal of the aforesaid application, the applicants/plaintiffs may not be dispossessed by the Subordinate Court.

11. Considering the facts of the instant case in entirety and in the interest of justice, the status quo shall be maintained by the parties qua the suit property as mentioned in the said application till the next date of hearing.

12. With the aforesaid directions, the application stands disposed of.

I.A. 2560/2021 (u/O XXXIX R-1 & 2 of CPC) List on 20th April, 2023.

CHANDRA DHARI SINGH, J FEBRUARY 7, 2023 Dy/ug Click here to check corrigendum, if any