

Sudesh Chhikara vs Baljeet Singh on 12 October, 2023

Author: Anup Jairam Bhambhani

Bench: Anup Jairam Bhambhani

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IN THE HIGH COURT OF DELHI AT NEW DELHI
FAO 266/2023
SUDESH CHHIKARA

BALJEET SINGH

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
OR

% 12.10.2023 CM APPL. 53077/2023_(Exemption) Exemption granted, subject to just exceptions. Let requisite compliances be made within 01 week. The application stands disposed of.

FAO 266/2023 & CM APPL. 53076/2023 (interim directions) By way of the present appeal under Order XLIII Rule 1 read with section 104 of the Code of Civil Procedure 1908, the appellant impugns order dated 14.08.2023 made by the learned Trial Court on an application under Order XXXIX Rules 1 & 2 CPC in CS No.282/2019, whereby the learned Trial Court has been pleased to dismiss the application essentially on the basis that the application under consideration was the third application under Order XXXIX Rules 1 & 2 CPC seeking the same relief.

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2. Furthermore, the learned Trial Court has also observed in the impugned order that by an earlier order dated 08.03.2022 made on an earlier application under Order XXXIX Rules 1 & 2 CPC, the appellant's (plaintiff in the suit) interest has already been protected by directing, on a consent order, that the respondent (defendant in the suit) would not sell the subject property without the permission of the court.

3. Mr. Jaipal Singh, learned counsel appearing for the appellant however submits, that as things stand today, the respondent has demolished the existing structure on the subject property and is re-building it, likely in collaboration with a third party, and that accordingly, the respondent is likely to create third party rights and interests in the property, short of selling it.

4. Counsel submits that therefore, order dated 08.03.2022 does not protect the interests of the appellant in the entirety. It is accordingly submitted that the relief prayed for by way of the third application under Order XXXIX Rules 1 and 2 CPC was different from what was prayed for in the earlier applications, though that relief was covered by order dated 08.03.2022.

5. The respondent is stated to be the father-in-law of the appellant, who has lost her husband; and is stated to be acting inimical to her interests in the subject property.

6. Upon a prima-facie view of the matter, issue notice.

7. Upon the appellant taking requisite steps, let notice be sent to the respondent by all permissible modes, returnable for the next date.

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8. Since the present proceedings are an appeal, no counter-affidavit/reply is called-for.

9. Re-notify on 13th March 2024.

10. In the meantime, considering the apprehension expressed and the circumstances of the case, it is directed that any rights, titles or interests - whether by sale or otherwise - created by the respondent in the subject property bearing No. C-33, Mansa Ram Park, C-Block, Uttam Nagar, Delhi shall be subject to the final decision in the present matter.

ANUP JAIRAM BHAMBHANI, J OCTOBER 12, 2023/ak The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 18/10/2023 at 20:47:22