

Swarn Malhotra vs Anit Sethi & Ors on 21 March, 2018

Author: Rajiv Sahai Endlaw

Bench: Rajiv Sahai Endlaw

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(OS) 2328/2009
SWARN MALHOTRA Plaintiff
Through: Mr. Lalit Gupta & Mr. Siddharth
Arora, Advs.
Versus
ANIT SETHI & ORS. Defendants
Through: None.
CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER

% 21.03.2018 IA No.3948/2018 (for exemption)

1. Allowed, subject to just exceptions.

2. The application is disposed of.

IA No.3946/2018 (of the plaintiff under Order XXXIX Rule 2A CPC)

3. The plaintiff avers violation by the defendants no.2 to 4 of the orders of status quo at pages 106 and 110 of the pending IAs file by the said defendants locking up the iron gate in property No.109, Jor Bagh, New Delhi blocking the access of the plaintiff to the borewell in the property which the plaintiff claims to have been using exclusively for two decades.

4. While the order at page 106 is the order of status quo in the context of restraining the defendants from selling and creating third party rights in the property, the order of status quo at page 110 is on IA No.3064/2006 and which also admittedly was not qua the borewell or the said gate.

5. An order directing status quo has to be read in the context of the application on which such an order has been made and cannot be construed as all encompassing, preventing the person against whom the order is made from even removing a brick or chattel in the premises. Thus no case for proceeding under Order XXXIX Rule 2A of the CPC is made out.

6. The application is dismissed.

7. At this stage, the counsel for the plaintiff withdraws the application.

8. The application is dismissed as withdrawn. IA No.3947/2018 (of the plaintiff under Order XXXIX Rules 1&2 CPC)

9. The plaintiff seeks to restrain the defendants no.2 to 4 from blocking the access of the plaintiff to the borewell in property No.109, Jor Bagh, New Delhi.

10. None appears for defendants.

11. Issue notice to the defendants no.2 to 4 through counsel, returnable on 24th April, 2018.

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12. Mr. M. Dutta, Advocate for defendants No. 2 to 4 has appeared, at this stage, and states that the defendants No. 2 to 4 will not obstruct the access of the plaintiff to the borewell or operation of the said borewell by the plaintiff.

13. Binding the defendants No. 2 to 4 to the said statement, the application i.e. IA No.3947/2018 is disposed of.

14. The date of 24th April, 2018 is cancelled.

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