

Smt. Nirmal Kaur vs Smt. Amarjeet Kaur & Ors on 21 March, 2018

Author: Valmiki J. Mehta

Bench: Valmiki J. Mehta

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 286/2016

SMT. NIRMAL KAUR

Through: Plaintiff
Mr. Raman Kapur, Sr. Adv. with Mr.
Varun Kapur, Adv.

versus

SMT. AMARJEET KAUR & ORS.

Through: Defendants
Mr. Gagan Gandhi and Ms. Heena
Mongia, Advocates for D-1.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA
ORDER

% 21.03.2018 I.A.No. 3940/2018 (U/s 151 CPC filed by the Local Commissioner)

1. This application is filed by the Local Commissioner bringing to the notice of this Court that in terms of the consent order passed by this Court on 15.12.2017 when he/Local Commissioner went to the site and did measurement of the suit property in terms of the order dated 15.12.2017, however, thereafter the defendant no.1 has issued a legal notice dated 12.3.2018 through her counsel stating that the Local Commissioner is in fact dishonest because he is preparing the report as per instructions of the CS(OS) 286/2016 page 1 of 4 plaintiff and that the legal notice further mentions that against the Local Commissioner civil and criminal proceedings will be initiated.

2. In my opinion, the actions of the defendant no.1 and her counsel Sh. Gagan Gandhi, Advocate are acts which amount to blatant contempt of court. It is unheard of that a Local Commissioner who is a delegatee of the Court to perform a function of measurement and give a report can be issued a legal notice alleging dishonesty on his part and also that threat is given to the Local Commissioner for initiating civil and criminal proceedings against the Local Commissioner.

3. It is seen that Mr. Gagan Gandhi, Advocate who has issued the notice to the Local Commissioner Mr. Bhim Sain Jain, Advocate, is in fact the real son of the defendant no.1 in the suit.

4. Ordinarily, the present was a fit case where after issuing notice of contempt to the defendant no.1 as also her counsel Mr. Gagan Gandhi, Advocate, the contempt proceedings should have been taken to their logical conclusion, because the actions of the defendant no.1 and her counsel who is her son have crossed all bounds known to law, however, Mr. Gagan Gandhi, Advocate appears in person and tenders unqualified and unconditional CS(OS) 286/2016 page 2 of 4 apology to the Court and states that the legal notice dated 12.3.2018 be taken as withdrawn. It is also stated that the legal notice dated 12.3.2018 ought not to have been issued and apology is tendered for issuing of the legal notice and it is undertaken that nothing will be done pursuant to the legal notice dated 12.3.2018 besides the fact that in future also neither the defendant no.1 nor her son who is an Advocate namely Mr. Gagan Gandhi will ever directly correspond with the present Local Commissioner or any other Local Commissioner appointed by the Court or issue legal notice to any such Local Commissioner. Obviously if a person is dissatisfied with the report of the Local Commissioner then the remedy is to file objections to the report of the Local Commissioner and not to start correspondence with the Local Commissioner or issue a legal notice for initiating civil and criminal proceedings against the Local Commissioner.

5. The apology of defendant no.1 and her son who is an Advocate namely Mr. Gagan Gandhi is accepted subject to the defendant no.1 and Mr. Gagan Gandhi, Advocate depositing an amount of Rs.5000/- each i.e totalling to Rs.10,000/- with the website www.bharatkeveer.gov.in within a CS(OS) 286/2016 page 3 of 4 period of four weeks from today and proof thereof be filed in this Court within a period of two weeks thereafter.

I.A stands disposed of with the aforesaid observations.

VALMIKI J. MEHTA, J

MARCH 21, 2018/ib

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