

Madhvi Gupta vs Sneha Rajpal & Another on 17 March, 2023

Author: Chandra Dhari Singh

Bench: Chandra Dhari Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(05) 3318/2011
MADHVI GUPTA

Through: None

versus

SNEHA RAJPAL & ANOTHER

Through: Mr. Arjun Singh Bawa, A
D-1

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH
ORDER

% 17.03.2023 I.A. 5196/2023 (u/O-XIV R-5 of CPC)

1. The instant application under Order XIV Rule 5 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of applicant/defendant no. 1 seeking the following reliefs:-

" a. Pass an order thereby framing additional issues in the present suit as mentioned here under: -

i. Whether the Plaintiff entered into another Agreement concerning the Suit Property and received an advance sale consideration of 13,00,000/- (Indian Rupees Thirteen Lakhs) under the said agreement ? OPD-2 ii. Whether the Plaintiff issued a Publication in August 2010 advertising the sale of Suit Property? OPD-1 iii. Whether the Plaintiff had sufficient funds to purchase the Suit Property? OPP iv. Whether time was of the essence under the Agreement to Sell dated 20.02.2010? OPD-1 b. Pass any other order which the Hon'ble Court may deem fit in the interest of justice."

2. Learned counsel appearing on behalf of defendant no. 1 submitted that vide order dated 23rd September, 2022, this Court was pleased to frame the following issues in the present suit:-

i. Whether the Sale Deed dated 30th June, 2010 executed by Defendant No.1 in favour of Defendant No.2 is null and void? OPP ii. Whether the plaintiff is entitled to execution of the Agreement to sell dated 20th February, 2010? OPP iii. Whether in the alternative the plaintiff is entitled to damages in the sum of Rs.3.50 crores? OPP iv. Whether the plaintiff is entitled to interest, if yes, at what rate and for what

period? OPP v. Whether the plaintiff is entitled to a decree of Specific Performance in respect of the Agreement to Sell dated 20th February, 2010? OPP vi. Whether the suit for Specific Performance Agreement dated 20th February, 2010 is barred by limitation? OPD-2 vii. Whether the defendant No.2 is bonafide purchaser for valuable consideration of the suit property? OPD-2 viii. Relief

3. It is submitted that since the plaintiff has denied the material propositions of facts in the plaint and the replication, therefore, in view of the facts and circumstances of the case, it is imperative and expedient to frame the following additional issues:

i. Whether the Plaintiff entered into another Agreement to Sell dated 23rd April, 2010 with Defendant No. 2 concerning the Suit Property and received an advance sale consideration of 13,00,000/- (Indian Rupees Thirteen Lakhs) under the said agreement ? OPD-2 ii. Whether the Plaintiff issued a Publication in August 2010 advertising the sale of Suit Property? OPD-1 iii. Whether the Plaintiff had sufficient funds to purchase the Suit Property? OPP iv. Whether time was of the essence under the Agreement to Sell dated 20th February, 2010? OPD-1 Hence, the aforesaid additional issues are imperative for proper adjudication of the dispute between the parties which form the subject matter of the present suit.

4. Heard.

5. On filing PF within a week, issue notice to the non-applicants through all permissible modes, returnable on 6th July, 2023 i.e. the date already fixed before the Joint Registrar.

CHANDRA DHARI SINGH, J MARCH 17, 2023 Dy/@k Click here to check corrigendum, if any