



2024-DK-10113



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 26th November, 2024
Date of Decision: 30th December, 2024

+ CS(OS) 223/2023

ABHINAV SINGH RAVISH & ANR.Plaintiffs

Through: Mr. Jai Sahai Endlaw, Ms. Rooh-E-Hina Dua, Mr. Vinayak Thakur, Mr. Ashish Kumar, Mr. Harshit Khanduja, Advocates.

versus

SHRI RAMANAND & ORS.Defendants

Through: Mr. Rajat Bhalla, Advocates for D-23 to 26.

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMEET PRITAM SINGH ARORA, J:

I.A. 10078/2023 (under Order VII Rule 11 CPC by defendant nos. 23 to 26 and 10);

I.A. 6575/2023 (under Order XXXIX Rules 1 and 2 CPC by plaintiffs for ad-interim and ex-parte injunction against defendants)

I.A 18394/2023 (under Section 5 of Limitation Act by plaintiffs seeking condonation of delay in filing Replication to the Written Statement of defendant no.23 to 26)

1. The present suit has been filed by the plaintiff nos. 1 and 2 seeking (i) a declaration of title/ownership for the land admeasuring 2 Bigha 1 Biswa out of Khasra No. 1440 (6-4) situated at Village Malikpur Kohi, Rangpuri, Tehsil Mehrauli, New Delhi ('suit property') (ii) recovery of possession (iii) declaration of sale deed dated 03.02.1989 and all subsequent sale deed(s)

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Signing Date: 31.12.2024
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CS(OS) 223/2023

Page 1 of 16



2024-DK-10113



[dated 05.09.1989, 29.07.1993, 13.12.1993 and 03.01.1994] executed in favour of the defendant nos. 12, 13, 14, 15, 21, 22, 23, 24 as null and void, (iii) cancellation of Assignment deed and General Power of Attorney (GPA) dated 29.07.2019 executed by defendant no. 23 in favour of 25 and cancellation of Assignment deed and General Power of Attorney 05.08.2022 executed by defendant no. 24 in favour of 26.

1.1. The plaintiff further seeks a decree for permanent injunction against all the defendant from interfering in the peaceful and lawful possession of the suit property.

Pleadings in the plaint

2. The present suit relates to land admeasuring 1 Bigha 1 Biswa that belongs to plaintiff no.1 and the land admeasuring 1 Bigha that belongs to plaintiff no. 2. The said land forms part of Khasra No. 1440 (6 bighas 4 biswas) situated at Village Malikpur Kohi, Rangpuri, Tehshil Mehrauli, New Delhi.

2.1. It is stated that the plaintiff no. 1 purportedly purchased the aforesaid land admeasuring 1 Bigha 1 Biswa from defendant no. 5 vide sale documents i.e. General Power of Attorney, Agreement to Sell, Affidavit, Will, receipt, and letter of possession all dated 13.08.2009. It is averred in the plaint that defendant no. 5 purchased the said land from defendant no. 4. It is further averred that defendant no. 4 purchased the land from the recorded owners i.e. defendant nos. 1 to 3 vide sale deed dated 12.04.1985.

2.2. Similarly, plaintiff no. 2 purportedly purchased the land admeasuring 1 Bigha vide sale documents i.e. General Power of Attorney, Agreement to Sell, Affidavit, Will and Receipt and letter of possession all dated 08.07.2009. The said sale documents are said to have been executed by defendant no. 5 in favour of plaintiff no. 2. It is averred in the plaint that defendant no. 5 purchased the said 1 Bigha from defendant no. 6. It is further averred that defendant no. 6 had

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023

Page 2 of 16



purchased the land from the recorded owners i.e. defendant nos. 1 to 3 vide sale deed dated 12.04.1985.

2.3. It is stated on 15.06.2021 when plaintiff no. 1 visited the aforesaid land, he found that defendant nos. 25 and 26 are attempting to interfere in the possession of the plaintiffs by constructing boundary wall in the suit property on the basis of permission obtained from defendant no. 27, Sub-Divisional Magistrate (SDM). It is averred in the plaint that after 15.06.2021 plaintiff learnt that defendant nos. 1 to 3 fraudulently vide sale deed dated 03.02.1989 sold 3 bighas and 2 biswas land out of Khasra No. 1440 to defendant no. 12.

2.4. It is stated that defendant no. 12 on the basis of the said sale deed dated 03.02.1989 sold the portions of the suit property to various persons, wherein, vide sale deed(s) dated 05.09.1989 1 bigha and 11 biswas land was sold to defendant no 13 and 1 bigha 11 biswas land was sold to defendant no 14.

2.5. It is stated the defendant no 13 and 14 along with defendant nos. 9, 10, 11, 16, 17, 18, 19 and 20 vide sale deed(s) dated 29.07.1993 sold 3 bighas and 2 biswas land to defendant no. 22; 1 bigha and 11 biswas land to defendant no. 15 and 1 bigha and 11 biswas land to defendant no. 21.

2.6. It is stated that defendant no. 22 through sale deed dated 13.12.1993 sold 1 bigha 11 biswas land to defendant no. 23 and through sale deed 03.01.1994 sold 1 bigha and 11 biswas land to defendant no. 24.

2.7. It is further stated the defendant no. 23 through registered Assignment deed and General Power of Attorney dated 29.07.2019 transferred 1 bigha and 11 biswas land in favour of defendant no. 25. And defendant no. 24 through registered Assignment deed and General Power of Attorney dated 05.08.2020 transferred 1 bigha and 11 biswas land in favour of defendant no. 26.

2.8. It is stated that the sale deed dated 03.02.1989 executed by defendant nos. 1 to 3 (recorded owners) and the subsequent sale deed(s) executed defeats the rights, title and interest of the plaintiffs over the suit property, hence, the

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023

Page 3 of 16



relief for declaration of title/ownership for the land admeasuring 2 Bigha 1 Biswa has been sought.

2.9. It is further stated in the plaint that defendant nos. 25 and 26 interfered with the plaintiffs physical possession of the suit property on the basis of permission obtained from defendant no. 27, SDM, therefore, on 16.06.2021 plaintiff had also made a complaint to defendant no. 27 against the said permission granted for raising boundary wall. However, the said complaint was dismissed on 07.08.2021 and since the said defendants were still making attempts to interfere in the suit property, hence, the relief for recovery of possession and permanent injunction has been sought in the present suit.

Submissions on behalf of the counsel for defendant nos. 23 to 26

3. Mr. Rajat Bhalla, learned counsel for defendant nos. 23-26 (contesting defendants) stated that the present suit is not maintainable as the plaintiffs have no right title or interest in the suit property. He stated that plaintiffs are claiming legal right on the basis of purported unregistered and unstamped documents i.e. General Power of Attorney, Agreement to Sell, Affidavit, Will, Receipt and possession letter dated 13.08.2009 allegedly executed by defendant no. 5. He relied upon the judgment of Supreme Court in **Shakeel Ahmed v. Syed Akhlaq Hussain¹** to state that no suit can be maintained by a party, who has no right, title or interest vest on the basis of these unregistered documents.

3.1 He stated that contesting defendants believe that the unregistered documents relied upon by the plaintiffs are false and fabricated. He stated that it is averred in the plaint that the ATS dated 13.08.2009 purportedly executed in favour of plaintiff no. 1 is for a sum of Rs. 1,10,000/- only and this amount was allegedly paid in cash by plaintiff no. 1 to the vendor i.e. defendant no. 5, He stated that the said facts are incredulous and the value assigned to the suit property is far below its then market value. He stated that the documents are



ante-dated and in this regard has drawn this Court's attention to the reverse side of the stamp paper on which the said ATS has been drawn up, to show that the relevant portion on the reverse side is blank.

3.2 He stated that plaintiffs have alleged that defendant no. 5 executed the purported sale documents in their favour. He stated, however, defendant no. 5 has made a statement before the police officials of P.S Vasant Kunj in **Complaint no. 1572/2021** titled as 'K. K. Garg v. Abhinav Singh Ravis & Ors.' filed against the plaintiffs that he has neither purchased the suit property nor sold the same to any person including the plaintiffs.

3.3 He stated that notwithstanding the said submission, even otherwise the documents relied upon by the plaintiffs are inadmissible on account of lack of registration and payment of stamp duty. He refers to sections 17 and 49 of the Indian Registration Act, 1908 ('Registration Act') and Sections 35 and 41 of Indian Stamp Act, 1899.

3.4 He stated that the plaintiffs have falsely alleged that they are in possession of the suit property. To buttress this fact, he stated that the said assertion is false as is evidenced by the order dated 07.08.2021 passed by the concerned Sub-Divisional Magistrate (SDM). He states furthermore, the said plea of possession cannot be entertained by this Court as the ATS relied upon by the plaintiffs is admittedly unregistered as well as unstamped and therefore the plaintiff cannot rely upon Section 53-A of the Transfer of Property Act, 1882 ('TP Act'). He stated that in the absence of the registration of the ATS, the plaintiffs are not entitled to any protection qua their alleged possession. He stated no documents have been filed to show that the plaintiffs are *prima facie* in alleged possession of the suit property.

3.5 He stated that the relief of declaration of ownership sought in the plaint on the basis of unregistered and unstamped documents is not maintainable in law and therefore the suit is without any cause of action.

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15:57:11

CS(OS) 223/2023



3.6 He stated that the plaintiff has relied upon sale deeds executed in July, 2009 and August, 2009, however there is no mutation in favour of defendant nos. 4, 5 and 6 in the records of the Tehsildar. He stated on the contrary the revenue records having duly mutated in the name of Mr. Ashwani Tiwari² and Ms. Chander Gogia³, the predecessor of the defendant nos. 25 and 26.

3.7 He stated that the plaintiff has suppressed from this Court the order dated 15.12.2021 passed by the learned Civil Judge, Patiala House Courts in the earlier suit for injunction bearing **CS No. 888/2021** titled as **Abhinav Singh Ravish and Anr. vs. K.K. Garg and Ors** with respect to the suit property. He stated the said order has neither been pleaded nor filed with the paper-book. He stated that in the said order the Court returned a finding that the purported sale documents relied upon by the plaintiff do not create any right, title or interest in favour of the plaintiff. He stated that no appeal was filed by the plaintiff against the said order dated 15.12.2021 and the said finding has attained finality. He stated that the non-disclosure of the order dated 15.12.2021 declining injunction to the plaintiffs and filing a fresh application for injunction i.e. I.A. 6575/2023 in this Court is textbook illustration of judicial opportunism and forum shopping by the plaintiffs. In this regard, he relies upon the judgments passed by Supreme Court in **Vijay Kumar Ghai and Ors. v. The State of West Bengal and Ors.**⁴; **K. Jayaram and Ors. v. Bangalore Development Authority and Ors.**⁵; **Union of India and Ors. v. Cipla Limited and Anr.**⁶.

3.8 He stated that the plaintiff in this suit seeks to challenge the sale deeds dated 03.12.1989, 05.09.1989, 29.07.1993 and 03.04.1994 executed in favour of the predecessors of the contesting defendants. He stated that the present suit

² Defendant no. 23

³ Defendant no. 24

⁴ 2022 (233) AIC 114

⁵ 2022(1) AKR 628

⁶ (2017) 5 SCC 262

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PRATAP SINGH

Signing Date: 31.12.2024

15:57:11

CS(OS) 223/2023



filed in the year 2023 to challenge the said sale deeds is barred by limitation. He stated that in case of a registered document a party is deemed to have knowledge from the date of registration. In this regard, he relies upon the judgment of Supreme Court passed in **Dibloo (dead) by LRs' v. Dhanraji (dead) by LRs & Ors.**⁷

3.9 He stated that insufficient Court fee has been paid on the relief seeking cancellation of sale deeds when admittedly the plaintiffs are not in possession as recorded by the learned Civil Judge in its order dated 15.12.2021 passed in **CS No. 888/2021** and by the learned SDM in its order dated 07.08.2021. He stated that the plaintiffs ought to pay ad-valorem Court fee on the market value of the suit property.

3.10 He stated that the suit property is located in an authorized colony known by the name of Ruchi Vihar, Pahadi Society which has been enlisted by Union of India for regularization. He stated that DDA is executing conveyance deeds in favour of persons residing in this colony. He stated that though the land in this colony has been acquired by DDA; the acquisition proceedings are pending before the Supreme Court and the contesting defendants have substituted themselves in the proceedings claiming rights of the recorded owners on the basis of the registered assignment deeds in their favour. He stated that compensation for this land has not been received by the recorded owners or the contesting defendants.

Submissions on behalf of the counsel for plaintiffs

4. In reply, Mr. Jai Sahai Endlaw, learned counsel for the plaintiffs states that it is a matter of record that the plaintiffs do not have any registered documents with respect to the suit property in their name. He admits that since the suit property is a subject matter of acquisition, registration of sale deed is not permissible in law for the subject land.

⁷ (2000) 7 SCC 702, Paragraph 20



4.1 He relies upon the narration of facts set out as document no. 2 in the paper-book to trace the rights of the plaintiffs. He relies upon the sale deed(s) dated 12.04.1985 executed by the recorded owners in favour of third parties i.e. defendant nos. 4, 6 and 7 as the basis of the claim of the plaintiffs. He stated it is correct that revenue records do not record the alleged transfer of title by recorded owners in favour of defendant nos. 4, 6 and 7.

4.2 He stated that it is a matter of record that in the revenue records the suit property stands mutated in favour of the predecessors of the contesting defendants including defendant nos. 23 and 24. He stated that he is unable to explain that in what circumstances the plaintiffs failed to verify the said mutation entries at the time of entering into the unregistered sale documents with defendant no. 5.

4.3 He stated it is a matter of record that plaintiffs have not sought any relief of specific performance against defendant no. 5.

4.4 He stated that the contesting defendants are tracing their title through defendant nos. 12, 13, 14, 21 and 22 on the basis of sale deed(s) dated 03.02.1989, 05.09.1989 and 29.07.1993. He stated, however, the said sale deed(s) are not available in the office of the concerned Sub-Registrar-III. He stated that the plaintiffs dispute the validity of the rights claimed by contesting defendants on the basis of the said sale deeds.

4.5 He stated that since the suit property is a vacant piece of land, therefore, the plaintiffs are in possession of the said land by virtue of the possession letter executed in its favour by defendant no. 5.

Findings and Analysis

5. This Court has heard the submissions of learned counsel for the parties and perused the record.

6. The plaintiffs have filed the present suit for seeking declaration of title in their favour with respect to land admeasuring 2 Bigha 1 Biswa out of Khasra

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023



2024-DK-10113



No. 1440 (6-4) situated at Village Malikpur Kohi, Rangpuri, Tehsil Mehrauli, New Delhi.

7. The declaration of title is sought by the plaintiff no. 1 on the basis of an unregistered General Power of Attorney, Agreement to Sell, Affidavit, Will and Receipt recording the sale consideration a meagre Rs. 1,10,000/- exchanged and letter of possession all dated 13.08.2009 ('unregistered sale documents'). The sale documents pertain to 1 Bigha 1 Biswa. The said sale documents are said to have been executed by defendant no. 5 in favour of plaintiff no. 1. As per the plaintiffs, defendant no. 5 purchased the said 1 Bigha 1 Biswa from defendant no. 4. The plaintiffs contend that defendant no. 4 purchased the land from the recorded owners vide sale deed dated 12.04.1985. The recorded owners are defendant nos. 1 to 3.

8. Similarly, the declaration of title sought by the plaintiff no. 2 is on the basis of an unregistered General Power of Attorney, Agreement to Sell, Affidavit, Will and Receipt evidencing the sale consideration of Rs. 1,25,000 exchanged and letter of possession all dated 08.07.2009 ('unregistered sale documents'). The sale documents pertain to 1 Bigha. The sale documents are said to have been executed by defendant no. 5 in favour of plaintiff no. 2. As per the plaintiffs, defendant no. 5 purchased the said 1 Bigha from defendant no. 6. The plaintiffs contend that defendant no. 6 purchased the land from the recorded owners vide sale deed dated 12.04.1985. The recorded owners are defendant nos. 1 to 3.

9. The plaintiffs admit that the suit property stands acquired and no sale or purchase of the suit property is permissible as per Delhi Lands (Restrictions on Transfer) Act, 1972 ('Act of 1972') and this restriction was applicable in the year 2009 when the plaintiffs executed the unregistered sale documents with defendant no. 5. The plaintiffs admit that no sale deed can be executed and registered in their favour by defendant no. 5 due to the said Act of 1972.

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023

Page 9 of 16



10. The plaintiffs further admit that their respective ATS are unregistered and thus not compliant with Section 17(1A) of the Registration Act, which was inserted in the statute by the amendment effective 24.09.2001. The plaintiffs admit that for relying upon Section 53-A of the TP Act (as amended w.e.f. 24.09.2001) to protect possession, it is mandatory that the ATS should be registered. The subject matter of this suit are ATS dated 08.07.2009 and 13.08.2009 respectively. The said ATS have been executed after the amendment to the statutes and are thus governed by these amendments, which makes it mandatory for such an ATS to be registered. The legislative intent in making the registration of ATS, whereunder the physical possession is handed over compulsory was to prevent avoidance of stamp duty so as to protect the public exchequer. This legislative intent has been recognized by the Supreme Court in its landmark judgment of **Suraj Lamps and Industries (P) Ltd. v. State of Haryana**⁸.

11. In this regard it would be relevant to refer to the judgment passed by the Coordinate bench of this Court in **Joginder Tuli v. State NCT of Delhi**⁹ wherein it has been held that it is a settled law that in order to avail benefit of statutory protection Section 53-A of TP Act, the document relied upon must be a registered document. The relevant portion of the judgment **Joginder Tuli (supra)** reads as under:

33. It is well settled that in order to give benefits of Section 53A of the Transfer of Property Act, the document relied upon must be a registered document. Any unregistered document cannot be looked into by the court and cannot be relied upon or taken into evidence in view of Section 17(1A) read with Section 49 of the Registration Act. Thus, benefit of Section 53A could have been given to the respondent, if and only if the alleged Agreement to Sell cum receipt satisfied the provisions of Section 17(1) A of the Registration Act (*Refer Arun Kumar Tandon v. Akash Telecom Pvt. Ltd.*, 2010 SCC OnLine Del 918).

⁸ (2012) 1 SCC 656

⁹ 2022 SCC OnLine Del 146

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023



(Emphasis Supplied)

Similarly, a Coordinate Bench of this Court in **Nawal Sood v. Amar Sood**¹⁰ observed as under:

17. It is clear and it is no more *res integra* that after the amendment of section of 53A of the Transfer of Property Act, 1881, unless the said instrument is registered in accordance with law, no such influence can be drawn.

12. In these admitted facts, it would be relevant to refer to judgment of Supreme Court in **Shakil Ahmed (supra)** wherein the Supreme Court has reiterated and held that no right, title or interest in an immovable property can be conferred without a registered document. The relevant portion of the judgment reads as under:

“5. The learned counsel for the appellant made the following submissions:

5.1. The Court below erred in decreeing the suit for possession and mesne profits on the basis of unregistered documents namely Agreement to Sell, Power of Attorney, Affidavit and a Will.

.....

8. On the other hand, learned counsel for the respondent submitted that all the documents relied upon by the respondent as basis for the suit were the customary documents and they conferred full title on the respondent to be the owner of the property in question and, therefore, he can maintain the suit.

9. It was also submitted that there was a prohibition of registration of documents of transfer/conveyance with respect to the area where the property in question is situate and, therefore, the transfers affected under the customary documents was sufficient to confer title on the respondent. It was also submitted that the judgment in the case of *Suraj Lamps & Industries Pvt. Ltd. v. State of Haryana*, which was of the year 2011, had prospective application and would not have any bearing on the title of the respondents which came to him under the customary documents executed in the year 2008 much prior to the judgment in the case of *Suraj Lamps & Industries (supra)*.

10. Having considered the submissions at the outset, **it is to be emphasized that irrespective of what was decided in the case of**

¹⁰ 2023 SCC OnLine Del 1996.



Suraj Lamps and Industries (supra) the fact remains that no title could be transferred with respect to immovable properties on the basis of an unregistered Agreement to Sell or on the basis of an unregistered General Power of Attorney. The Registration Act, 1908 clearly provides that a document which requires compulsory registration under the Act, would not confer any right, much less a legally enforceable right to approach a Court of Law on its basis. Even if these documents i.e. the Agreement to Sell and the Power of Attorney were registered, still it could not be said that the respondent would have acquired title over the property in question. At best, on the basis of the registered agreement to sell, he could have claimed relief of specific performance in appropriate proceedings. In this regard, reference may be made to sections 17 and 49 of the Registration Act and section 54 of the Transfer of Property Act, 1882.

11. **Law is well settled that no right, title or interest in immovable property can be conferred without a registered document.** Even the judgment of this Court in the case of Suraj Lamps & Industries (supra) lays down the same proposition. Reference may also be made to the following judgments of this Court: (i). Ameer Minhaj v. Deirdre Elizabeth (Wright) Issar² (ii). Balram Singh v. Kelo Devi³ (iii). Paul Rubber Industries Private Limited v. Amit Chand Mitra⁴

12. The embargo put on registration of documents would not override the statutory provision so as to confer title on the basis of unregistered documents with respect to immovable property. Once this is the settled position, the respondent could not have maintained the suit for possession and mesne profits against the appellant, who was admittedly in possession of the property in question whether as an owner or a licensee.

13. The argument advanced on behalf of the respondent that the judgment in Suraj Lamps & Industries (supra) would be prospective is also misplaced. **The requirement of compulsory registration and effect on non-registration emanates from the statutes, in particular the Registration Act and the Transfer of Property Act.** The ratio in Suraj Lamps & Industries (supra) only approves the provisions in the two enactments. Earlier judgments of this Court have taken the same view.”

(Emphasis Supplied)

13. Pertinently, in the said judgment, the Supreme Court at paragraph 9 also noted the submission of the plaintiff therein that the customary documents were executed as per prevalent practice due to restriction on transfers by registration of conveyance in the said area. The Supreme Court expressly rejected the said contention of the plaintiff therein and unequivocally held that

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023

Page 12 of 16



2024-DK-10113



restrictions on registration of documents cannot be overcome by a party and no transfer of title is effective in the absence of registered documents as contemplated under Section 54 of the TP Act. The Supreme Court held that the plaintiff therein has no locus standi to file the suit for recovery of possession on the basis of unregistered documents namely ATS, POA, Affidavit and Will as no title vested in the said plaintiff.

14. In view of the law laid down by Supreme Court in the aforesaid judgment, it is apparent that the plaintiffs herein have no right, title or interest in the suit property on the basis of the unregistered sale documents dated 13.08.2009 and 08.07.2009 respectively. In the absence of any title, the relief of declaration of title prayed for at prayer clause (a), (b) and (c) of the plaint is without any legal basis and hence without any cause of action.

15. Similarly, the plaintiffs have no locus to maintain the reliefs seeking cancellation of sale deed(s) dated 05.09.1989, 29.07.1993, 13.12.1993 and 03.01.1994 as well as cancellation of assignment deeds dated 29.07.2019 and 05.08.2020. No right, title or interest has devolved upon the plaintiffs from defendant nos. 1 to 3, who as per the plaintiffs are the admitted initial recorded owners and the cause of action, if any for seeking the relief of cancellation can only lie with defendant nos. 1 to 3. For this reason, the relief for cancellation sought in the plaint at prayer clauses (e), (f), (g), (h), (i), (j), (k) and (l) are without any legal basis and cause of action.

16. The plaintiffs at prayer clause (m) of the plaint seek a decree for permanent injunction to restrain the defendants from interfering in the possession of the plaintiffs. There is no document on record evidencing actual physical possession of the plaintiffs in the suit property. To the contrary the plaintiffs have placed on record the learned SDM's order dated 07.08.2021, which categorically records that plaintiffs are not in possession of the suit property and it is indeed the contesting defendants, who are in possession of

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023

Page 13 of 16



2024-DK-10113



the suit property. The relevant portion of the order dated 07.08.2021 reads as under:

“By this order, I shall dispose off an application filed by Sh. Abhinav Singh Ravish S/o Sh. Shamsher Singh and Sh. Raj Singh S/o Late Sh. Maha Singh, claiming therein having purchased land measuring 02 Bigha 01 Biswa out of Khasra No. 1440(6-4) situated at Village Malikpur Kohi @ Rangpuri, Delhi vide GPA, Agreement to Sale and Purchase, Affidavit, Receipt, Will dated 08.07.2009 and 13.08.2009 from its previous owners Sh. Satish Kumar Bansal and Sh. Gobind Singh Goyal, who purchased 01 Bigha 01 Biswa and 01 Bigha land respectively out of Khasra. No 1440 (6-4} from its recorded Bhumidhars Sh. Ramanand, Omprakash and Ishwar Singh through two separate sale deeds dated 12.04.1985 duly registered as documents Nos. 2584 and 2586 in Book no. 01, Volume No. 5235 on pages 84 to 87 and 72 to 75 respectively. Alongwith the application, all the documents constituting claimed complete chain of title have been attached. Though the application contains name of both Sh. Abhinav Singh Ravish and Sh. Raj Singh, however, the same is signed by only Sh. Abhinav Singh Ravish. Vide this application, the applicant has requested to cancel the permission of fencing or raising boundary, if any, accorded by the SDM/RA(Vasant-Vihar), Delhi with immediate effect and take appropriate strict action in order to stop the wrong doer Sh. K K Garg from raising any kind of unauthorized construction over the land comprising in Khasra No: 1440 (6-4) and land status report was called from the Tehsildar (Vasant Vihar)/Halka Patwari, which is available in the file.

Sh. K.K Garg and his wife Mrs. Ranjana Garg, being the attorney holders of Sh. Ashwani Tiwari and Smt. Chander, recorded owners of the land measuring 03 bigha 02 biswa, comprised in Khasra No. 1440, situated in the Revenue Estate of Village Rangpuri, Delhi, vide an application dated 12.04.2021 bearing diary No. 1027 applied for permission to repair/construct the boundary wall over the above mentioned land, for levelling and reinstallation of gate. The SDM/RA (Vasant Vihar), Delhi, after verifying the land records and calling land status report from Halka Patwari, granted permission for the same vide Order dated 28.05.2021 bearing No. SDM/VV/2021/1576.

After careful scrutiny of all the land records detailed hereinabove and report of the Halka patwari, it is found that the applicants are neither recorded as owners nor in possession of any part out of the land comprised in Khasra No. 1440 (6-4) situated in the Revenue Estate of Village Rangpuri, Delhi. Accordingly, the application filed by applicants is without merit and the same is rejected.”

(Emphasis Supplied)

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023

Page 14 of 16



17. It is a matter of record that the said order has not been set aside and the said finding of the SDM as regards actual physical possession is in operation as on date.

18. Thus, as a matter of fact, the plaintiffs are not in possession of the suit property on its own showing and therefore the relief of permanent injunction prayed for at prayer clause (m) of the plaint is without any cause of action. This is notwithstanding that in law the plaintiffs are not entitled to invoke the provision of Section 53-A of the TP Act due to the non-registration of the ATS as required under Section 17(1-A) of the Registration Act.

19. In view of the finding that the plaintiffs neither have any right, title or interest nor are in possession of the suit property, therefore, the decree seeking recovery of possession at prayer clause (d) of the plaint is without any merit.

20. Further the relief for permanent injunction sought at prayer clause (n) of the plaint from restraining the defendants from creating third-party rights is also without any legal basis and hence without any cause of action.

21. The plaintiffs have suppressed the order dated 15.12.2021 passed in **CS No. 888/2021** by the Ld. Civil Judge in dismissing the application seeking interim injunction. The said order and the findings therein were relevant and therefore, the non-disclosure of the said order is deliberate. Moreover, having lost the interim injunction application before the Ld. Civil Judge, the filing of the present suit is not bona fide and an attempt at forum shopping with the intent to seek interim reliefs.

22. In view of the findings above, this Court is of the view that the relief sought in the present plaint filed on the basis of unregistered and unstamped documents i.e. General Power of Attorney, Agreement to Sell, Affidavit, Will, Receipt and possession letter dated 13.08.2009 and 08.07.2009 allegedly executed by defendant no. 5, is without any cause of action and manifestly vexatious as these documents do not confer any rights on the plaintiff so as to

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PRATAP SINGH
Signing Date: 31.12.2024
15:57:11

CS(OS) 223/2023



2024-DHC-10113



entitle them to maintain the present suit and thus the plaintiff is liable to be rejected under Order VII Rule 11 CPC. Accordingly, I.A. No. 10778/2023 stands allowed.

23. Interim orders stand vacated. Accordingly, I.A. No. 6575/2023 and I.A. 18394/2023 stands dismissed and I.A. No. 21876/2023 stands allowed.

24. The Registry is directed to return the original documents filed by the parties in accordance with the Rules.

25. It is clarified that the dismissal of the suit is not to be construed as an expression of opinion on the rights of defendant nos. 23 to 26 to the suit property, which shall be decided by the competent Court as and when the issue arises for consideration. This judgement is however, binding qua the findings returned herein on the absence of proprietary rights of the plaintiffs vis-à-vis the suit property.

26. Pending applications stand disposed of.

27. All future dates stand cancelled.

28. The plaintiff shall pay costs of Rs. 2 lakhs to the contesting defendant nos. 23 to 26 within four (4) weeks.

**MANMEET PRITAM SINGH ARORA
(JUDGE)**

DECEMBER 30, 2024/mt/ms/rhc

Signature Not Verified

Signed By: HEMANT
PRATAP SINGH
CS(OS) 223/2023
Signing Date: 31.12.2024
15:57:11

Page 16 of 16