

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 14.11.2011

+ **FAO(OS) 511/2011 & CM 19517/2011**

MUKESH SHANKAR & ORS

..... Appellant

versus

ROHIT CHHABRA & ORS

..... Respondent

Advocates who appeared in this case:-

For the Appellant : Mr C. Mukund with Mr Avneesh Garg, Advocates

For the Respondent : Mr J.P. Sengh, Sr. Advocate with Ms Ankita Gupta,
Advocates

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MS JUSTICE VEENA BIRBAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

BADAR DURREZ AHMED, J (ORAL)

1. This appeal has been filed against the order dated 14.09.2011 passed in I.A. No. 2497/2009 in CS(OS) No.459/2006. The

application (IA No.2497/2009) had been filed by the appellants who were arrayed as defendant nos 7 to 9 in the said suit. The application sought modification of the status quo order dated 18.10.2006 on the ground that the appellants be permitted to carry out the repair/renovation work in the premises in question as also to install meat processing machines so that they can carry on their business.

2. The learned Single Judge after hearing the parties dismissed the application primarily on the ground that the transaction between defendant no.1 and the present appellants (defendant nos 7 to 9) was itself under a cloud. As observed in the impugned order, the defendant no.1 had sold the suit property during the pendency of the suit. It is also noted in the impugned order that the defendant no.1 had got his name mutated in the records of the DDA on the basis of a will allegedly left by late Sh. Thakur Das Chhabra. It is the case of the plaintiff (the respondent no.1 herein) that the said defendant no.1 got the property mutated in his name illegally and fraudulently inspite of the fact that the said plaintiff had filed objections with the DDA through the letter dated 21.03.2006. It has been observed in the impugned order that the DDA had informed the court that, prima

facie, fraud had been committed in the mutation process and it is also noted that it is an admitted position that DDA has cancelled the mutation in the name of defendant no.1 and, consequently, the conveyance deed executed in favour of defendant no.7 to 9 (the appellants herein) has also been cancelled. It is another matter that the present appellants (defendant nos 7 to 9) have filed a separate suit CS(OS) No.1791/2008 challenging the cancellation of the conveyance deed which is pending before a Single Judge of this Court.

3. It is in this backdrop, when there is a cloud over the title of the appellants over the suit property, that the application for modification of the status quo order dated 18.10.2006 was dismissed.

4. We may also note that when the said order dated 18.10.2006 was passed, the present appellants (defendant no.7 to 9) were not party to the suit. However, they were subsequently impleaded on 25.09.2008. Throughout, the proceedings till the impugned order dated 14.09.2011 came to be passed, the appellants have been participating in the same. It has been observed in the impugned order that on 21.09.2007, when their impleadment was pending, it was stated on behalf of the defendant nos 7 to 9 (the appellants herein) that

the property was in their possession and that they were aware of the interim order and further that the property had not to be dealt with in any manner including either by way of reconstruction or parting with the possession or further transfer of title. This also makes it clear that even prior to their formal impleadment, the appellants (defendant no.7 to 9) had been bound down by the court. In view of the foregoing, we see no reason to interfere with the impugned order and consequently, the appeal is dismissed. Any observations made in this order with regard to the merits of the matter are only of a prima facie nature and are not to be looked into at the time of the decision on merits in the pending suit.

Dasti.

BADAR DURREZ AHMED, J

VEENA BIRBAL, J

NOVEMBER 14, 2011
srb