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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 1552/2013

% ***Judgment dated 23.01.2014***

KULDIP SOBTI

..... Plaintiff

Through : Mr.Dinesh Garg and Ms.Rachna
Aggarwal, Advs.

versus

THE SUB REGISTRAR OF
ASSURANCE-II A & ANR

..... Defendants

Through : Ms.Chanchal Sharma, Adv. for D-1.
Mr.Sunil Fernandes, Mr.Deepak Pathak,
Mr.Raghav Chadha, Mr.Neeraj Grover
and Ms.Insha Mir, Advs. for D-2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Plaintiff has filed the present suit for permanent and mandatory injunction.
2. According to the plaint, one, Sh.Rajesh Wadhwa, was the owner and in possession of entire basement floor and entire ground floor alongwith one mezzanine room together with entire front courtyard and rear open space of freehold plot No.18 on road No.4, measuring 199.42 sq. yards, situated in the layout plan of The Adarsh Bhawan Cooperative House Building Society Limited, near Punjabi Bagh, New Delhi, with undivided, indivisible and proportionate share in land rights and with other common rights and entitlements. The said Sh.Rajesh Wadhwa sold the property to the plaintiff by a Registered Sale Deed dated 22.6.2009 and after receipt of full sale consideration legal, symbolic and

physical possession of the suit property was handed over to the plaintiff. On the same date i.e. 22.6.2009, Sh.Rajesh Wadhwa took the suit property on rent from the plaintiff vide registered Rent Agreement of the same date for a period of one year at the rate of Rs.50,000/-, per month. After purchase of the property the plaintiff applied for mutation of the property in his name. Later on, the plaintiff learnt that Sh.Rajesh Wadhwa apparently played a fraud upon Ms.Poonam Hassija and Ms.Neha Hasija by representing to them that he was the owner and in possession of the suit property and also by again selling the suit property to them vide a registered Sale Deed dated 28.4.2011 for which the plaintiff had no knowledge.

3. Learned counsel for the plaintiff submits that the subsequent Sale Deed dated 28.4.2011, which has been executed by Sh.Rajesh Wadhwa in favour of Ms.Poonam Hassija and Ms.Neha Hasija in relation to the suit property, for which he has received the full consideration from the plaintiff, is of no consequence, as on the date when Sh.Rajesh Wadhwa had executed the Sale Deed dated 28.4.2011 in favour of Ms.Poonam Hassija and Ms.Neha Hasija, he had no right, title and interest in the suit property and, thus, the subsequent transaction is not binding on the plaintiff. Consequently, based on the subsequent Sale Deed, Ms.Poonam Hassija and Ms.Neha Hasija got the electricity connection bearing K.No.102721700 transferred in their name. On 31.8.2012 Ms.Poonam Hassija and Ms.Neha Hasija wrote a letter to defendant no.1 bringing to his knowledge the said act of fraud and cheating on the part of Sh.Rajesh Wadhwa and further alleged connivance of the officers in the Office of Sub-Registrar, who did not disclose the earlier sale made by Sh.Rajesh Wadhwa in favour of the plaintiff. Relevant portion of the letter dated

31.8.2012, which has been extracted at para 8 of the plaint, reads as under:

“Letter dated 31.08.2012

..... After purchase of the above property, to our dismay and shock we learnt that the same property was earlier sold by same Shri Rajesh Wadhwa S/o Late Sh.Krishan Lal Wadhwa to Mr.Kuldip Sobti on 22.06.2009. It was registered in your office in the name of Mr.Kuldip Sobti vide Registration No.2312 in Addl. Book No.I Vol. No.1226 on pages 176 to 186 on 22.06.2009. A certified / True copy of the said Registration as obtained from your office is enclosed for your ready reference.

From the above documents, it appears that Sh.Rajesh Wadhwa S/o Late Sh.Krishan Lal Wadhwa sold the same property namely, Basement and Ground Floor of Property No.18 Road No.4 Adarsh Bhawan Co-operative House Building Society Ltd., Punjabi Bagh Extn. New Delhi, TWICE, once to Mr.Kuldip Sobti on 22.06.2009 & the second time to Mrs.Poonam Hassija and Mrs.Neha Hassija on 02.05.2011 and both the Sale Deeds were registered in your office.

You are requested to please intimate as to how Sh.Rajesh Wadhwa got the Sale Deed registered in our names when as per your Books of records of Registrations, the said property stood in the name of Mr.Kuldip Sobti as on 02.05.2011.

We intend to take up the case in a Court of Law against Mr.Rajesh Wadhwa who misled us in believing that the said property belonged to him when he sold it to the undersigned on 02.05.2011. He even managed to have this false sale deed registered in your office.

Had your office been more vigilant, we could have been saved from this fraud committed on us by Mr.Rajesh Wadhwa....."

4. Learned counsel for the plaintiff submits that the plaintiff, in the meanwhile, being the lawful owner of the suit property, intended to sell the same to a purchaser but on account of the aforesaid letter the Sub-Registrar refused to register the Sale Deed.
5. Counsel for the defendant No.1 submits that the present suit is not maintainable as the same is premature, as the Sub-Registrar has not refused to register any sale deed presented by the plaintiff for registration. The present suit has only been filed on the basis of apprehension that the answering defendant may refuse the registration. Counsel further submits that there is no provision in the office of the Sub-Registrar to verify the fact as to who is the present owner of the property and whether he or she has sold the same very property to someone else earlier in point of time. However, in response to para 10(ii) of the plaint, what has been stated is reproduced below:

“(ii) That it is further wrong hence denied that the defendant no.1 has no right to refuse to register any Sale Deed as and when executed by the plaintiff in respect of the suit property or any part thereof only because of letter dated 31.8.2012. It is necessary to mention here that the letter dated 31st of August, 2012 of Ms.Poonam Hassija and Ms.Neha Hassija is the information to the answering defendant regarding some fraud committed to them and they requested to the answering defendant not to register any further sale document to avoid multiplicity of litigations in respect of suit property. Hence it became the duty of the sub-registrar to avoid the multiplicity of litigations not to executed further sale deed till the real and lawful owner will be declared by court of law. It is further necessary to submit here that the non-registration of further document in respect of suit property is also in the interest

of plaintiff as well as the public at large so that there should not be series of offence in respect of the suit property.”

6. In the written statement the defendant no.1 has also extracted Rule 42 of the Delhi Registration Manual, as per which Registering officer is not concerned with the validity of the documents and it would be wrong for them to refuse to register any document including on the ground that the property, sought to be relied upon, did not belong to the seller.
7. Counsel for the defendant no.1 submits that the sub-Registrar has taken the stand not on account of any mala fide reasons but as a precaution, as the aforesaid letter was received from Ms.Poonam Hassija and Ms.Neha Hasija.
8. I have heard counsel for the parties. It would be useful to reproduce Rule 42 of the Delhi Registration Manual, which reads as under:

“Registering officer not concerned with validity of documents:-

Registering officers should bear in mind that they are in no way concerned with the validity of documents brought to them for registration, and that it would be wrong for them to refuse to register on any such ground as the following e.g., that the executed (sic. executant) was dealing with property not belonging to him, or that the instrument infringed the rights of third persons not parties to the transaction, or that the transaction was fraudulent or opposed to public policy. These and similar matters are for decisions, if necessary, by competent courts of law and registering officers, as such have nothing to do with them. If the document is presented in a proper manner by a competent person at the proper office within the time allowed by law, and if the registering officer is satisfied that the alleged executed (sic. executants) is the person he represent himself to be, and if such person admits execution, the registering officer is bound to register the document without regard to its possible effects.”

9. There is force in the submission of counsel for the plaintiff that he apprehends that in case a sale deed is presented for registration, the Sub-Registrar may refuse the same, which is borne out from the stand taken by the Sub-Registration in his written statement and has been extracted hereinabove.
10. After some hearing in the matter, it is agreed between the parties that the present suit may be disposed of with the following agreed directions:
- (i) The Sub-Registrar will issue a communication to Ms.Poonam Hassija and Ms.Neha Hasija and inform them that in case they want the Sub-Registrar not to register any subsequent sale deed pertaining to this property they shall obtain a stay order within six weeks of receipt of the communication, failing which the Sub-Registrar will register the sale deed with respect to the suit property in accordance with law and if presented by the plaintiff; and
 - (ii) as far as defendant no.2 is concerned, learned counsel for defendant no.1 submits that in case an application is filed along with relevant documents, an appropriate relief will be granted to the plaintiff in accordance with law.
11. Accordingly, with the consent of the parties, suit stands disposed of in above agreed terms.

I.A. 12569/2013.

12. Application stands disposed of in view of the order passed in the suit.

G.S.SISTANI, J

JANUARY 23, 2014 msr