



2025:UHC:2208

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No.134 of 2024

25 March, 2025

M/s V Marc India Limited.

--Appellant

Versus

Jaan Illahi and another

--Respondents

Presence:-

Mr. Nikhil Singhal, Advocate for the appellant.

Mr. Ankur Sharma, Advocate for respondent no.1.

Mr. Mohd. Safdar, Advocate for respondent no.2

Hon'ble Vivek Bharti Sharma, J. (Oral)

This appeal is filed against the order dated 01.02.2024 passed by learned Civil Judge (S.D.), Roorkee, District Haridwar in Original Suit No.171 of 2023, "*Jaan Illahi Vs. Pravez and another*" whereby learned Civil Judge(S.D.), Roorkee, District Haridwar allowed the application of respondent no.1/plaintiff under Order 39 Rule 1 and 2 read with Section 151 C.P.C. thereby directing the appellant /defendant no.2 and respondent no.2/defendant no.1 to maintain status quo at the spot.

2. Learned counsel for the appellant/defendant no.2 would submit that the suit property was sold by respondent no.1/plaintiff to respondent no.2/defendant no.1 vide registered Sale Deed dated 01.08.2022; that, thereafter respondent no.2/defendant no.1 executed the



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Sale Deed dated 26.07.2023 duly registered in the office of Sub-registrar, Roorkee, District Haridwar; that, after about one year of the registration of the Sale Deed in favour of respondent no.2/defendant no.1, respondent no.1/plaintiff filed present suit for cancellation of the Sale Deed along with application under Order 39 Rule 1 and 2 CPC. The application under Order 39 Rule 1 and 2 CPC filed by the respondent no.1/plaintiff was allowed by the impugned order dated 01.02.2024.

3. Learned counsel for the appellant/defendant no.2 would submit that he is a *bonafide* purchaser and paid the consideration through bank transaction and has registered Sale Deed in his favour by the person who is also a *bonafide* purchaser of the suit property by duly executed Sale Deed by respondent no.1/plaintiff and without adverting on this fact the Trial Court has directed the appellant/defendant no.2 to maintain *status-quo* notwithstanding the fact that the suit property was purchased for installation of the industry for which the appellant/defendant no.2 has got the permission on 24.07.2023 and had erected 112 cement post and raised other construction which is also noted in the impugned order itself.

4. Learned counsel for the appellant/defendant no.2 would submit that impugned order is unsustainable



in the eyes of law and there is no *prima facie* case in favour of respondent no.1/plaintiff and even the balance of convenience was not in his favour.

5. Learned counsel for the appellant/defendant no.2 would further submit that because of the impugned order irreparable loss is caused to the appellant which cannot be compensated in terms of money to appellant/defendant no.2, therefore, the impugned order is liable to be set aside.

6. Per contra, learned counsel for respondent no.1/plaintiff would submit that fraud has been played upon him by respondent no.2/defendant no.1, who is his nephew i.e. son of his sister; that, respondent no.1/plaintiff was severely ill at the time of the execution of the Sale Deed allegedly executed in favour of respondent no.2/defendant no.1; that, when respondent no.1 came to know about this fraud he filed the present suit and also filed criminal case. However, he would fairly concede that the Sale Deed in favour of respondent no.2/defendant no.1 was a registered Sale Deed and would also concede that in his plaint he has not stated that the Sale Deed executed in favour of respondent no.2/defendant no.1 was not bearing his signatures and or he had not gone to and appeared for execution and registration of Sale Deed before the Sub-registrar; that, it



is not stated in plaint how the fraud was played upon him by respondent no.2/defendant no.1; that, the only thing which he has stated in plaint is that he was not mentally stable at the time of execution of Sale Deed in favour of respondent no.2/defendant no.1.

7. The mute question is can a ground or averment in plaint that executant of a registered document was not of stable mind be a ground for cancellation of a duly registered document or not. This Court is *prima facie* of the view on this question that merely such averment cannot be the ground for cancellation of a duly registered document.

8. In view of the above, the impugned order is liable to be set aside since there is no *prima facie* case in favour of respondent no.1/plaintiff and balance of convenience is also not in his favour rather this Court is of the considered opinion that in view of the fact that the appellant/defendant no.2 has purchased this suit property for installation of industrial unit for which he has already got permission, therefore, non-installation of the same shall cause irreparable loss not only in monetary terms to the appellant /defendant no.2 but to the public at large, which will ultimately affect industrial and economic activities in the State adversely.

9. Accordingly, the present appeal from order is



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allowed. The impugned order is set aside and the application of respondent no.1/plaintiff Under Order 39 Rule 1 and 2 CPC stands rejected.

10. The Trial Court is requested to decide the suit as early as possible.

(Vivek Bharti Sharma, J.)

25.03.2025

ss