

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

+ **CS(OS) No. 100/2010**
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19th August, 2015

SMT. SEEMA THAKUR

..... Plaintiff

Through: **Mr. Viraj R. Datar and Mr. Chetan Lokur, Advocates.**

versus

UNION OF INDIA & ORS.

..... Defendants

Through: **Mr. Vibhor Bagga and Ms. Radhika Gupta, Adv. for applicant**

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not? **Yes**

VALMIKI J. MEHTA, J (ORAL)

I.A.No. 3453/2014 (Under Order XII Rule 6 CPC by defendant no.6)

1. This is an application moved by the defendant no.6 in the suit, one Sh. Raj Kumar Bhatara. Defendant no.6/applicant was not an original party to the suit but he was added as defendant no.6 in the suit vide Order dated 22.5.2013 of a Division Bench of this Court in RFA(OS) No. 42/2013. It may be noted that the suit was originally dismissed for non-prosecution and by the Order dated 22.5.2013 the suit was restored and by the same order the applicant/defendant no.6 was made as a party to the suit on the **CS(OS) No. 100/2010**

ground that defendant no.6/applicant claims to be a *bona fide* purchaser for value of the suit property. The suit property is the property bearing no.18/50, East Patel Nagar, New Delhi having an area of 86.7 sq. yds.

2. In the subject suit originally there were a total of five defendants. Defendant no.1 is the Union of India. Defendant no.2 is the Land and Development Office of the Union of India. Defendant no.3 is one Sh. Gopi Chand. Defendant no.4 is one Smt. Sunita Wadhwa, Defendant no.5 is Municipal Corporation of Delhi and Defendant no. 6 is Raj Kumar Bhatara, the applicant. Defendant nos. 3, 4 and 6 represent the same interest inasmuch as defendant no.3, Sh. Gopi Chand is said to have purchased the suit property from the plaintiff and thereafter sold the same to defendant no.4, Smt. Sunita Wadhwa and who thereafter further sold the same to the applicant/defendant no.6.

3. I may note that the subject suit is filed by the plaintiff, Smt. Seema Thakur not under her own signatures but the suit is filed through her attorney one Sh. Vijay Kapoor. Smt. Seema Thakur is stated to be settled abroad in the USA.

4. In the suit the plaintiff by virtue of various reliefs effectively wants declaration of her ownership with respect to the suit property and also

possession thereof by evicting defendant nos.3, 4 and 6. The prayer clauses of the suit read as under:-

- “1. the decree for declaring that the Agreement to Sale, General power of attorney, Special Power of Attorney, Will, Receipts/Affidavits and all the other documents alleged executed by the plaintiff in favour of the Defendant No.3 on 31.5.2004 with respect to the Suit property (situated at 18/50, East Patel Nagar Market, New Delhi) is nullity and null and void in the eye of law and hence may be directed as cancelled,
2. the decree for declaring that the Conveyance deed dated 20.12.2004 executed by the Defendant Nos.1 and 2 at the instance and in favour of the Defendant No.3 with respect to the Suit property (situated at 18/50, East Patel Nagar Market, New Delhi) is nullity and null and void in the eye of law and hence may be directed as cancelled,
3. the decree for declaring that the conversion of the suit property from lease hold to free hold done by the Defendant Nos. 1 and 2 at the instance and in favour of the Defendant No.3 with respect to the Suit property (situated at 18/50, East Patel Nagar Market, New Delhi) is nullity and null and void in the eye of law and hence may be directed as cancelled,
4. the decree for declaring that the Mutation Order dated 31.3.2005 (bearing No.Tax/KBZ/2004-05) with respect to the suit property allowed by MCD at the instance and in favour of the Defendant No.3 and all the subsequent mutations with respect to the Suit property (situated at 18/50, East Patel Nagar Market, New Delhi) is nullity and null and void in the eye of law and hence may be directed as cancelled,
5. the decree for declaring that the Sale deed dated 22.5.2006 with respect to the suit property executed by Defendant No.3 in favour the Defendant No.4 and all the subsequent sale deeds, if any, with respect to the Suit property (situated at 18/50, East Patel Nagar Market, New Delhi) is nullity and null and void in the eye of law and hence may be directed as cancelled,

6. the decree of possession in favour of the plaintiff and a decree of eviction against the Defendant Nos. 3 and 4 or any other person/entity claiming through Defendant Nos. 3 and 4 with respect to the Suit property (situated at 18/50, East Patel Nagar Market, New Delhi),
7. the decree of mesne profits of Rs. 7,50,000/- till the date of institution of the present suit,
8. the decree of mesne profits @ Rs. 15,000/- per month for future and pendente-lite mesne profits against Defendant Nos. 3 and 4 or any other person/entity claiming through Defendant Nos. 3 and 4 with respect to the Suit property (situated at 18/50, East Patel Nagar Market, New Delhi),
9. decree for interest @ 8% to be calculated from the date of the institution of the present suit on the aforesaid amounts to be recovered,
10. decree for awarding cost of the Suit,
11. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."

5. A reading of the prayer clauses shows that the plaintiff, Smt. Seema Thakur through her attorney, Sh. Vijay Kapoor disputes the fact that the suit property was ever sold by her to defendant no.3, Sh. Gopi Chand , much less through the documentation dated 31.5.2004. Acting pursuant to the documentation dated 31.5.2004, the defendant nos. 1 and 2/Union of India and the Land and Development Office have executed a Conveyance Deed dated 20.12.2004 and converted the property from leasehold to freehold in the name of defendant no.3.

6. The case of the applicant/defendant no.6 in the present application under Order XII Rule 6 of the Code of Civil Procedure, 1908 (CPC) for dismissing the suit on admissions of the plaintiff can be said to fall into two parts. One part is based upon observations which are made by a court of Metropolitan Magistrate regarding the factum that the plaintiff's/Seema Thakur's case is that she admits sale of the suit property to Sh. Gopi Chand/defendant no.3. The observations of the Metropolitan Magistrate are in a criminal complaint filed by the defendant no.3 against the plaintiff. The second part of the application is based upon judicial admissions made by the plaintiff through her attorney, Sh. Vijay Kapoor who has filed this suit and who was also an attorney of the plaintiff in earlier civil suit proceedings and which judicial admissions are made in the pleadings of the plaintiff through her attorney, Sh. Vijay Kapoor showing that it is admitted by the plaintiff that the suit property was in fact sold by her to defendant no.3, Sh. Gopi Chand. It may be noted that once there exists a valid sale of the suit property by the plaintiff, Smt. Seema Thakur to the defendant no.3, Sh. Gopi Chand, there is no dispute further that Sh. Gopi Chand thereafter has not sold the property to defendant no.4, Smt. Sunita Wadhwa and who has sold the suit property further to the present defendant no.6/applicant. Essentially, therefore, this Court has to examine whether

there are such categorical judicial admissions whereby the suit should be decreed i.e dismissed (decree includes dismissal of a suit) under Order XII Rule 6 CPC. Order XII Rule 6 CPC reads as under:-

“Order XII Rule 6. Judgment on admissions-(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or if its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

7. A reading of the aforesaid provision shows that the court has discretion depending upon the facts of a case whether or not to decree the suit under Order XII Rule 6 CPC. If the admissions are such that further trial is not necessary, a court is entitled to pass a decree without requiring further trial. The principles with respect to Order XII Rule 6 CPC have been stated by the Supreme Court in its judgment in the case of *Uttam Singh Duggal & Co. Ltd. Vs. Union Bank of India & Ors. (2000) 7 SCC 120*. The relevant paragraphs of this judgment are paras 12, 15 and 17 and which read as under:-

“12. As to the object of the Order XII Rule 6, we need not say anything more than what the Legislature itself has said when the said provision came to be amended. In the objects and reasons set out while amending the said

rule, it is stated that "where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled." We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which, it is impossible for the party making such admission to succeed.

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15. Even without referring to the expression 'otherwise' in Rule 6 of Order XII CPC, we can draw an inference in the present case on the basis of the pleadings raised in the case in the shape of the applications under that Rule and the answering affidavit which clearly reiterates the admission. If that is so, interpretation of the expression 'otherwise' becomes unnecessary.

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17. Learned Counsel for the petitioner contended that admissions referred to in Order XII, Rule 6 CPC should be of the same nature as other admissions referred to in other Rule preceding this Rule. Admissions generally arise when a statement is made by a party in any of the modes provided under Sections 18 to 23 of the Evidence Act, 1872. Admissions are of many kinds : they may be considered as being on the record as actual if that is either in the pleadings or in answer to interrogatories or implied from the pleadings by non-traversal. Secondly as between parties by agreement or notice. Since we have considered that admission for passing the judgment is based on pleadings itself it is unnecessary to examine as to what kinds of admissions are covered by Order XII, Rule 6 CPC."

(underlining added)

8. In addition to the aforesaid judgment it is relevant to refer to the judgment of the Supreme Court in the case of *Nagindas Ramdas Vs.*

Dalpatram Ichharam alias Brijram & Ors. (1974) 1 SCC 242. The Supreme Court in paragraph 27 of this judgment has made a distinction between evidentiary admissions and judicial admissions (admission in pleadings) as evidence. The Supreme Court has held that evidentiary admissions can be explained away, and which is obviously because of Section 21 of the Indian Evidence Act, 1872 but the judicial admissions however can be the basis of disposal of the matter on merits itself because judicial admissions stand on a higher footing and pedestal than mere evidentiary admissions. Judicial admissions have been held by the Supreme Court in this case to be fully binding on the party which makes them and constitute a waiver of proof for the judicial admissions to be made foundation of the rights of the parties. Para 27 of this judgment reads as under:-

“27. From a conspectus of the cases cited at the bar, the principle that emerges is, that if at the time of the passing of the decree, there was some material before the Court, on the basis of which, the Court could be prima facie satisfied, about the existence of a statutory ground for eviction, it will be presumed that the Court was so satisfied and the decree for eviction, though apparently passed on the basis of a compromise, would be valid. Such material may take the shape either of evidence recorded or produced in the case, or, it may partly or wholly be in the shape of an express or implied admission made in the compromise agreement, itself. Admissions, if true and clear, are by far the best proof of the facts admitted. Admissions in pleadings or judicial admissions, admissible under Section 58 of the Evidence Act, made by the parties or their agents at or before the hearing of

the case, stand on a higher footing than evidentiary admissions. The former class of admissions are fully binding on the party that makes them and constitute a waiver of proof. They by themselves can be made the foundation of the rights of the parties. On the other hand, evidentiary admissions which are receivable at the trial as evidence, are by themselves, not conclusive. They can be shown to be wrong.” (underlining added)

9. In the present case, the applicant/defendant no.6 relies upon the judicial admissions made by the present plaintiff in the earlier civil suit proceedings. These civil suit proceedings are a suit bearing no. 141/2004 titled as *Smt. Panchi Devi Vs. Smt. Seema Thakur & Others*. Panchi Devi is the mother-in-law of the present plaintiff, Smt. Seema Thakur and the mother-in-law had filed the suit against Smt. Seema Thakur with respect to the suit property. In this suit Smt. Seema Thakur through her attorney, Sh.Vijay Kapoor filed her written statement and para 16 of this written statement containing judicial admissions reads as under:-

“16. That in reply to para 16 of the plaint, it is submitted that no cause of action has arose in favour of the plaintiff and against the defendants. **As the mutation in respect of property No.18/50 had taken place on 16.4.1985 and on the basis of the revenue record and mutation, the defendant No.1 purchased the same from defendant No.3 paying due consideration and defendant No.1 finding herself unable to manage the property, sold the same to defendant No.2. The defendant No.2 purchased the property, mutation of property was done by the L&DO in the revenue record, which was authentic.** There is no reason to disbelieve the record when the original owner categorically stated that he was owner and in possession of the property No.18/50. On the other hand, **the record projects the transaction was bonafide between the**

defendant No.1 and the defendant No.2 in respect of property in question. The defendant No.1 Smt. Seema Thakur and the defendant No.2 Gopi Chand are the bonafide purchaser in the light of the mutation of the property done by the L&DO. L&DO was the necessary party in the suit. The plaintiff has not made the L&DO a party in the array of defendant in the present suit.”

(emphasis is mine)

10. The second civil proceedings wherein the judicial admissions are made is the suit filed by Smt. Seema Thakur herself being CS(OS) No. 2211/2003 and in this suit an application was filed by Smt. Seema Thakur under Order VI Rule 17 CPC read with Section 151 CPC for amending of the plaint and sought inter alia addition of the following paragraph 15D in the plaint:-

“15D. That it is submitted that the plaintiffs purchased Shop No.18/50, East Patel Nagar, from Sh. P.N.Vij, who was the original owner and in possession of the said property No. 18/50, East Patel Nagar, New Delhi, and the said property was substituted by L&DO vide letter No. L&DO/PS/II 892 dated 16th April, 1965 and the Conveyance Deed registered as documents NO. 3989 on 16th April, 1965. The plaintiff being satisfied to the ownership and possession of Shri P.N.Vij on the basis of record available in L&DO and the revenue records purchased the Shop No. 18/50, East Patel Nagar, New Delhi, on 31st May, 2004 after paying the due consideration. The fact that Shri P.N.Vij was the original allottee and owner in possession and sold the Shop No. 18/50, East Patel Nagar, to the plaintiff as has been admitted by him in his written statement filed in Suit No. 141/2004 pending before the Civil shop, the plaintiff has sold the Shop No. 18/50 to Shri Gopi Chand, who has been made defendant No.2 in Suit No. 141/2004 by the defendants in the present suit.”

(underlining added)

11. On behalf of the applicant/defendant no.6, it is argued that judicial admissions made in the pleadings by the plaintiff, and through her same attorney, Sh. Vijay Kapoor who has filed the present suit, constitute a waiver of proof with respect to the disputes in the present case with respect to ownership of the suit property having been sold by the plaintiff to Sh.Gopi Chand, and that such judicial admissions be made foundation of the rights of the parties for disposal of the suit of the plaintiff vide *Nagindas Ramdas's* case (*supra*). Essentially, it is argued that once by judicial admissions the plaintiff admits that she had sold the property to Sh. Gopi Chand, thereafter, a different case cannot be set up that the suit property was not sold by Smt. Seema Thakur to Sh. Gopi Chand and which is the case of plaintiff, Smt. Seema Thakur in this suit.

12. I may at this stage state that so far as other admissions which have been relied upon by the applicant/defendant no.6 for decreeing of the suit referring to the contents of judicial orders passed by the Metropolitan Magistrate showing that it was the plaintiff's case in those criminal proceedings that she had sold the property to Sh. Gopi Chand are concerned, I am not relying upon the same for the disposal of the present application, inasmuch as, counsel for the plaintiff informs this Court that on the

application which has been filed by Smt. Seema Thakur in the court of Metropolitan Magistrate for expunging the observations made in the judicial order that Smt. Seema Thakur admits that she had sold the property to Sh. Gopi Chand, orders are reserved and have to be pronounced by the concerned court of Metropolitan Magistrate on 24.8.2015.

13. Then the issue arises is that whether judicial admissions made in the written statement filed by the present plaintiff in suit no. 141/2004 and in the application under Order VI Rule 17 CPC in CS(OS) No. 2211/2003 in this Court (wrongly typed as 2221/2003 in the application under Order VI Rule 17 CPC), are such admissions for this Court to dismiss the suit under Order XII Rule 6 CPC. I have already noted that the definition of decree includes dismissal of the suit vide sub-Section (2) of Section 2 CPC.

14. Learned counsel for the plaintiff/non-applicant has argued that the application does not deserve to be allowed because the plaintiff in the present suit has explained the circumstances in which admissions were made in the judicial proceedings in the two suits being suit no. 141/2004 and CS(OS) No. 2211/2003 stated above, and which is that there was collusion between the Advocate, Sh. K.P. Mavi who represented the plaintiff, Smt. Seema Thakur through her attorney, Sh. Vijay Kapoor in that case and Sh.

Gopi Chand. It is argued that plaintiff has already filed a complaint in the Bar Council of India against Sh. K.P. Mavi, Advocate and therefore, judicial admissions made in the two suits should not be read against the plaintiff. It is argued that Sh. K.P. Mavi, Advocate was the advocate of Sh. Gopi Chand is shown from the documents filed by the plaintiff alongwith the list of documents dated 6.1.2010 being an application filed by the plaintiff in CS(OS) No. 970/2004 in this Court showing that Sh. K.P. Mavi, Advocate was the advocate of Sh. Gopi Chand, and therefore, Sh. K.P. Mavi, Advocate should be taken as representative of the interest of Sh. Gopi Chand and not the plaintiff because Sh. Gopi Chand and plaintiff Smt. Seema Thakur have conflicting interest. It is argued that FIR bearing no. 522/2007 has been lodged by the complainant Sh. Gopi Chand against Smt. Seema Thakur and thus there are disputes between Sh. Gopi Chand and Smt. Seema Thakur. It is also argued that Smt. Seema Thakur herself has lodged an FIR bearing no. 33/12 against Sh. Gopi Chand. It is accordingly argued that once there is conflicting interest between Sh. Gopi Chand and Smt. Seema Thakur, alleged admissions made by Smt. Seema Thakur in terms of the pleadings which are signed no doubt by Sh. Vijay Kapoor, but filed through Sh. K.P. Mavi, Advocate, the same cannot be used against the plaintiff.

15. In my opinion, the application in question deserves to be allowed and the suit is liable to be dismissed. The reasons are given hereunder.

16. One thing is clear that Sh. Vijay Kapoor is indubitably the attorney of the plaintiff, Smt. Seema Thakur. He is the attorney of the plaintiff not only in this suit but he has consistently been acting as attorney of Smt. Seema Thakur in all other civil proceedings. Therefore, judicial admissions made in earlier civil proceedings in litigations for and against Smt. Seema Thakur, and which judicial admissions show that Smt. Seema Thakur has sold the suit property to Sh. Gopi Chand, in my opinion, can be the basis of creation of rights in favour of Sh. Gopi Chand and hence the present applicant/defendant no.6. As stated in the case of *Nagindas (supra)*, judicial admissions constitute waiver of proof and such admissions can be made the foundation of rights of the parties inasmuch as, they are different from evidentiary admissions/evidence which are not conclusive and can be shown to be wrong. Putting it differently, evidentiary admissions can be explained away but judicial admissions cannot be explained away as argued by the counsel for the plaintiff by alleging collusion between Sh. Gopi Chand and Sh. K.P. Mavi, Advocate. In fact on facts, I am unable to agree

that there can at all have been any collusion between Sh. K.P. Mavi, Advocate and Sh. Gopi Chand inasmuch no doubt Sh. K.P. Mavi, Advocate represented Sh. Gopi Chand but during the relevant period of the years 2003-2004 interest of Sh. Gopi Chand and Smt. Seema Thakur were common i.e it was the admitted position at that stage that Smt. Seema Thakur had sold the suit property to Sh. Gopi Chand by means of documentation dated 31.5.2004. At this stage, therefore, Sh. K.P. Mavi, Advocate would have represented both Sh. Gopi Chand and Smt. Seema Thakur because there was commonality of interest between Smt. Seema Thakur and Sh. Gopi Chand. I therefore fail to understand as to how reckless allegations can be made by the plaintiff against Sh. K.P. Mavi Advocate, merely because the plaintiff has conveniently stated that the plaintiff has filed a complaint with the Bar Council of India, however, no copy of the complaint of the Bar Council of India has been filed before this Court. Making of the complaint against Sh. K.P. Mavi, Advocate in the Bar Council of India is stated to be of the year 2010, but till date in August, 2015, the alleged complaint made to the Bar Council of India has not seen light of the day. Of course, in my opinion, filing of complaint in the Bar Council of India against Sh. K.P. Mavi, Advocate would not have made any difference because a self-serving complaint made against an Advocate to the Bar Council exists

because a dishonest person such as Smt. Seema Thakur/plaintiff wants to back out of the admitted case of the property being sold by her to Sh. Gopi Chand, and such stand of Smt. Seema Thakur hence deserves complete rejection by this Court. It is relevant and repeated at the cost of repetition that judicial admissions being relied upon by this Court are those which were made before disputes had arisen between Smt. Seema Thakur and Sh. Gopi Chand much later in the year 2007 when Sh. Gopi Chand filed a criminal complaint against the plaintiff, Smt. Seema Thakur. In my opinion, therefore, nothing will turn upon subsequent criminal proceedings initiated either by Sh. Gopi Chand against Smt. Seema Thakur (in 2007) or Smt. Seema Thakur against Sh. Gopi Chand (in 2012). However, the water was calm and clear with respect to the ownership rights transferred by Smt. Seema Thakur to Sh. Gopi Chand in the year 2004 when the judicial admissions were made that Smt. Seema Thakur had indeed sold the suit property to Sh. Gopi Chand.

17. I may note that today a new counsel Mr. Viraj R. Datar appears for the plaintiff although plaintiff on the last date of hearing when the matter was argued on behalf of the defendants was represented by Mr. Abinash K. Mishra, Advocate. During the course of hearing on the last date, a legal

issue on behalf of defendant no.6 had been urged and put to the counsel for the plaintiff with respect to dismissal of the suit as being barred by limitation under Articles 58 and 59 of the Limitation Act, 1963 in view of Section 3 of the Limitation Act which allows the court to *suo moto* dismiss a time barred suit. This legal issue is that admittedly the plaintiff has known since May, 2004 that she did execute the impugned documents in favour of Sh. Gopi Chand. Plaintiff no doubt claims that these documents were got illegally executed from her, but it is not disputed before this Court by the counsel for the plaintiff that existence of documents of May, 2004 was known to the plaintiff, Smt. Seema Thakur in 2004 itself. In law, as per Articles 58 and 59 of the Limitation Act, plaintiff can seek cancellation of the documents or declaration that they are illegal only if the suit is filed within three years of arising of cause of action. Cause of action arises from the date of knowledge of existence of the documents and once the documents are known to the plaintiff admittedly since the year 2004, this suit had to be filed by the year 2007 for questioning the documents, but, the present suit is filed in the year 2010. I may note that the Supreme Court in the judgment in the case of ***Prem Singh & Ors. Vs. Birbal & Ors. (2006) 5 SCC 353*** has held that there are two types of documents viz void documents and voidable documents.

The Supreme Court in ***Prem Singh's*** case (*supra*) has held that there is no ***CS(OS) No. 100/2010***

period of limitation with respect to void documents but where the documents are pleaded to be voidable then the suit under Section 31 of the Specific Relief Act, 1963 read with Article 59 of the Limitation Act has to be filed within three years of the fact on the basis of which plaintiff seeks to cancel the documents comes to the knowledge of the plaintiff. Since the admitted position in the present case is that knowledge of the documents which are impugned by the plaintiff in May, 2004 in favour of the defendant no.3, Sh. Gopi Chand were to the knowledge of the plaintiff, Smt. Seema Thakur since May, 2004 itself, and which documents are claimed to be voidable, the ratio in the judgment in the case of *Prem Singh (supra)* will squarely apply and the suit will also be clearly barred by limitation being filed beyond three years as required by Articles 58 and 59 of the Limitation Act.

18. In view of the above, the application is allowed and the suit is dismissed on both the counts of the plaintiff not being entitled to explain away the judicial admissions of the transfer of title in the suit property having been made by her to defendant no.3, Sh. Gopi Chand but also on the ground of limitation. Plaintiff thus by the present suit cannot lay a cause of action and claim reliefs that the plaintiff has not sold the suit property to defendant no.3, Sh. Gopi Chand and which Sh. Gopi Chand has thereafter

further sold the property to defendant no. 4, Smt. Sunita Wadhwa and then by Smt. Sunita Wadhwa to the defendant no.6/applicant.

19. Considering the facts of the present case I am of the opinion that the plaintiff has come to this Court with a false case. Section 209 of the Indian Penal Code, 1860 (IPC) provides that when a person comes to court with a false case, such person is liable to be punished by imprisonment for a period upto two years in addition to fine. I therefore issue notice to the plaintiff as also to her attorney, Sh. Vijay Kapoor under Section 340 of the Code of Criminal Procedure, 1973 (Cr. P.C) to show cause as to why a criminal case be not lodged against the plaintiff and her attorney, Sh. Vijay Kapoor by the Registrar General of this Court or by the defendant no.6 in terms of permission to be granted by this Court, under Section 209 IPC. Show cause notice be issued to the plaintiff as also to her attorney, Sh. Vijay Kapoor returnable on 28.10.2015. I may note that the show cause notice will be personally replied not only by the plaintiff but also by her attorney, Sh. Vijay Kapoor inasmuch as, pleadings in this case as also in the earlier civil proceedings have admittedly been signed by Sh. Vijay Kapoor on behalf of Smt. Seema Thakur.

20. At this stage, counsel for defendant no.6 states that in view of the suit having been dismissed, the counter claim filed by him of declaration, defendant no.6 being a lawful owner is for the present not being pursued more so because effectively this Court by the present judgment has held that the plaintiff cannot question transfer of ownership rights in the suit property to Sh. Gopi Chand and Sh. Gopi Chand is not disputing transfer of title in the suit property firstly to Smt. Sunita Wadhwa and thereafter to applicant/defendant no.6. Liberty is however given to the defendant no.6/applicant to revive the counter claim if for some reason the suit itself is revived.

21. Both Smt. Seema Thakur and Sh. Vijay Kapoor will remain personally present in Court on the next date of hearing.

22. The application is allowed and the suit is accordingly dismissed in terms of the aforesaid observations. Decree sheet be prepared.

AUGUST 19, 2015
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VALMIKI J. MEHTA, J.