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

+ **CONT.CAS(C) 86/2012**

RMG BUILDERS AND DEVELOPERS PVT LTD..... Petitioner
Through: Mr. Shivam Sharma, Adv.

versus

USG CONSTRUCTION PVT LTD AND ORS Respondents
Through: Mr. Arun Bhardwaj, Sr. Advocate with
Mr. Baldev Malik and Mr. Arjun Malik, Adv.

% **Date of Decision : 15th September, 2015**

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present contempt petition has been filed alleging wilful disobedience of the order dated 15th October, 2009 passed in WP(C) 12453/2009, whereby the respondents were directed to maintain status quo with regard to the title, possession and construction on the plot No. 5A, Bhamasha Marg, Delhi.
2. It is the petitioner's case that in violation of the above order, the respondents have executed four sale deeds with regard to the aforesaid premises.
3. On the last date of hearing, Mr. Arun Bhardwaj, learned senior counsel for the respondents stated that the sale deeds had been executed under a bona fide mistake and the respondents have no objection to

restoration of status quo ante as well as to the cancellation of the four sale deeds.

4. In fact, in pursuance to the last order, the respondents have placed on record identical affidavits of Mr. Anil Kumar Gupta, Ms. Saroj Goyal, Ms. Sapna Goyal, Shweta Goyal, Nitin Gupta and Ms. Deepti Gupta stating that they have no objection to the annulment of the sale deeds in their favour. The relevant portion of one of the affidavits is reproduced hereinbelow:-

“2.I have No objection if status quo ante is restored in terms of Order dated 21/08/2015 of the Hon’ble Delhi High Court in CONT. CASE(C) No. 86/2015 and the aforementioned Sale Deed by virtue of which I purchased the aforementioned Property Pvt. No. 7, which falls at the back side of Block-A on third floor (along with terrace-roof rights) having covered area measuring 1830 sq. fts. Approx, part of the Plot No. 5 and 5A , out of Khasra No. 128 and 129, situated at Bhamashah Marg Opp. Kirpal Bagh, Delhi is cancelled.”

5. Today, Mr. Bhardwaj has handed over an affidavit of Ms. Sitara Chawla on similar lines. The same is taken on record.

6. Mr. Bhardwaj also submits that he has instructions from Ms. Sitara Chawla through Mr. Baldev Malik, Advocate, to state that she also has no objection to the annulment of the sale deed. He states that her affidavit could not be filed as she is out of station.

7. In fact, the Apex Court and the different High Courts have consistently taken the view that execution of any sale deed in disobedience of an interim order of the Court is a nullity. Some of the relevant judgments are reproduced hereinbelow:-

- (i) In **Krishna Kumar Khemka vs. Grindlays Bank P.L.C. (1990) 3 SCC 669**, it has been held as under:-

“16.Therefore the tenancy created in favour of the Tatas was in breach of the order of the Court and consequently the Tatas cannot claim any protection under the provisions of the Act and they are liable to be evicted.In any event as observed above, the new tenancy created in their favour contrary to the orders of the Court does not create a right and is liable to be cancelled.....”

- (ii) In **Satyabrata Biswas vs. Kalyan Kumar Kisku, (1994) 2 SCC 266**, it has been held as under:-

“29. Hence, the grant of sub-lease is contrary to the order of status quo. Any act done on the teeth of the order of status quo is clearly illegal. All actions including the grant of sub-lease are clearly illegal....

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31. The parties are relegated to the position as on 15-9-1988. Somani Builders are hereby directed to deliver vacant possession to the Special Officer within one month from today....”

- (iii) In **Surjit Singh vs. Harbans Singh, (1995) 6 SCC 50**, it has been held as under:-

“4.In defiance of the restraint order, the alienation/assignment was made. If we were to let it go as such, it would defeat the ends of justice and the prevalent public policy. When the court intends a particular state of affairs to exist while it is in seisin of a lis, that state of affairs is not only required to be maintained, but it is presumed to exist till the Court orders otherwise. The Court, in these circumstances has the duty, as also the right, to treat the alienation/assignment as having not taken place at all for its purposes.....”

- (iv) In ***Savitri Devi vs. Civil Judge, Gorakhpur, AIR 2003 Allahabad 321***, it has been held as under:-

*“10.It is settled legal proposition that sale deeds so executed are a nullity as having been executed in disobedience of the interim order of the Court. In **Mulraj v. Murti Raghunathji Maharaj, AIR 1967 SC 1386**, the Hon’ble Supreme Court considered the effect of action taken subsequent to passing of an interim order in its disobedience and held that any action taken in disobedience of the order passed by the Court would be illegal, subsequent action would be a nullity.*

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12. Therefore, there is no doubt that the alleged sale deeds are nullity, meaning there-by non est, unenforceable and in executable and deserve to be ignored.

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28. To sum up the case, the sale deeds allegedly executed by the respondent No.3 in favour of respondent Nos. 4 to 6 are nullity as had been executed in disobedience of the interim order passed by the trial Court on 18-8-1992.....”

- (v) In ***Ashwani Kumar vs. Lachi Ram, AIR 2003 HP 28***, it has been held as under:-

“17.If after the grant of temporary injunction by the Court, a party brings about any change in the subject-matter of the suit in disregard of the orders of the Courts, it is within the power of the Court to restore the things to the position where they stood immediately before the grant of the ad-interim injunction.”

- (vi) In ***Keshrimal Jivji Shah vs. Bank of Maharashtra, (2004) 122 Comp Cas 831 (Bom)***, it has been held as under:-

“26.It is time that we recognize the principle that transfer of immovable property in violation of an order of injunction or prohibition issued by Court of law, confers no right, title or interest in the transferee, as it is no transfer at

all. The transferee cannot be allowed to reap advantage or benefit from such transfer merely because he is not party to the proceedings in which order of injunction or other prohibitory direction or restraint came to be issued. It is enough that the transferor is a party and the order was in force. These two conditions being satisfied, the transfer must not be upheld. If this course is not adopted then the tendency to flout orders of Courts which is increasing day by day can never be curbed.....”

(vii) In ***Punjab National Bank vs. Delite Properties Pvt. Ltd., AIR 2004 Calcutta 114***, it has been held as under:-

“17. It is settled position of the law that if any person or persons in breach of the order of Court comes in possession in a suit property they do not acquire any right or authority and they are to be dealt with amongst other by passing the order of eviction and further with an appropriate order of punishment....”

(viii) In ***Praveen Garg vs. Oriental Bank of Commerce, 128 (2006) DLT 811***, it has been held as under:-

“6. The question that arises for my consideration is whether the Recovery Officer in view of a stay order by the competent court could have proceeded with such an auction and whether such an auction which then creates a title, can be set aside?.....From the law enunciated by the Supreme Court it is clear that sale of property is non est. The Recovery Officer had no right to subject the property to sale. Consequently, any auction pursuant thereto would be of no consequence.”

(ix) In ***Madhur Poddar vs. Ashok Poddar, (2006) 2 Calcutta Law Times 133 (HC)***, it has been held as under:-

“7.I am of the further view that if any property is sold and/or alienated in reach of the order of injunction transferee

cannot get any title. Under the law such as action would be invalid and non-est....

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49. The law is thus settled. There is nothing to the contrary. If an argument to the contrary were to be accepted Court orders would loose their meaning and administration of justice will be affected. Here the breach was carried out with impunity and with misplaced confidence that they will get away with the wrong. The order has to be enforced. The property has to be brought back to the company. The respondents cannot be allowed to either escape the punishment or the consequences of their action.”

8. Keeping in view the aforesaid as well as the fact that the impugned sale deeds had been executed in violation of a stay order, this Court sets aside/annuls the four sale deeds dated 15th July, 2010, 26th February, 2010, 23rd June, 2010 and 21st April, 2011 executed by the respondents and the status quo ante as prevalent on 14th October, 2009 is restored.

9. Unconditional apology tendered by the respondents is also accepted by this Court and the respondents are directed to be more vigilant and careful in future.

10. Consequently, the present contempt petition is disposed of and notices issued are discharged.

MANMOHAN, J

SEPTEMBER 15, 2015
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