

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

+ CS(OS) 1940/2011

Decided on : 29.04.2015

IN THE MATTER OF:

KAMLESH

..... Plaintiff

Through: Mr. V.K. Malik, Advocate with
Mr. Rahul Raj Malik and Mr. Lalit Vohra,
Advocates

versus

DILBAGH SINGH AND ORS

..... Defendants

Through: Defendants are *ex parte*.

CORAM

HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J.(Oral)

1. The plaintiff has instituted the present suit against the defendants (husband and wife) praying *inter alia* for a decree of permanent injunction, restraining them from interfering in her peaceful possession, occupation and usage of the suit premises, i.e., plot measuring 500 sq. yards comprised in Khasra No.280 (1-01) and 281 (0-10), situated in the extended Lal Dora Abadi of village Mitraon, New Delhi, as shown in red colour in the site plan (PW-1/2).

2. As per the averments made in the plaint, the plaintiff was interested in purchasing a parcel of land in village Mitraon. Defendant

No.1 had approached the plaintiff offering to sell his plot of land to her by representing that the said plot is situated in the extended Lal Dora Abadi of the subject village. After settling the terms of sale, the plaintiff had agreed to purchase the subject land for a total consideration of ₹20 lacs. Thereafter, a Sale Deed dated 09.12.2010 was executed by the defendant No.1 in favour of the plaintiff and it was duly registered in the office of the Sub Registrar-IX. A copy of the Sale Deed has been filed by the plaintiff and is marked as Ex.PW1/3. The original Sale Deed has been produced by learned counsel for the plaintiff for the perusal of the Court and returned to him. Vide application dated 30.7.2011, the plaintiff had also applied to the revenue authorities for seeking mutation of the subject plot in her favour. A copy of the said application is enclosed with the affidavit by way of evidence filed by the plaintiff and marked as Ex.PW1/4. It is stated that the revenue authorities had carried out the mutation in favour of the plaintiff and recorded her as the owner of the subject land. To substantiate the said submission a copy of the Khatoni for the year 2002-03 has been filed by the plaintiff and is marked as Ex.PW1/5.

3. Learned counsel submits that the cause of action for instituting the present suit arose when after execution of the Sale Deed and upon

taking over possession of the suit property, the plaintiff had planned to undertake construction activity on the subject land. However, on 26.07.2011, she was accosted by the defendant No.2 (wife of the defendant No.1/vendor), who was accompanied by some relations. Defendant No.2 had picked up a fight with the plaintiff and had threatened her that she would not permit her to raise any construction or undertake any activity on the subject land. The defendant No.2 had also asserted that at the time of executing the Sale Deed in respect of the subject land her husband, the defendant No.1 had not consulted her or the other family members.

4. It is stated by learned counsel that the defendants had lodged a protest with the office of the Sub Registrar and threatened the plaintiff that they would take forcible possession of the subject land from her. Apprehending the threatened action, interference and obstruction in the plaintiff's peaceful possession and occupation of the subject land, at the hands of the defendants, she had to approach the local police and had lodged complaints dated 27.07.2011 and 31.08.2011 against the defendants. Copies of the said complaints have been enclosed with the plaintiff's affidavit by way of evidence and are marked as Ex.PW1/6 and PW1/6A. Simultaneously, the plaintiff had proceeded to institute the present suit for permanent injunction against the

defendants on the apprehension that they may give effect to their threatened action and cause interference in her peaceful possession and occupation of the subject land.

5. As per the records, vide order dated 09.08.2011, the plaint was registered as a suit and summons were issued to the defendants returnable on 03.11.2011. On the same date, it was directed that the parties shall maintain *status quo* with regard to the title and possession of the subject land. On 03.11.2011, Mr. Arvind Rana, Advocate had entered appearance for the defendant No.2, but none had appeared for the defendant No.1. Counsel for the defendant No.2 was directed to file the written statement and the case was adjourned to 19.01.2012. However, neither of the defendants had filed their written statement and nor were they represented through counsel. As a result, on 06.03.2012, the defendants were proceeded against *ex parte* and the plaintiff was directed to file her affidavit by way of evidence. Further, the interim order dated 09.08.2011 passed on I.A.No.12590/2011 was made absolute during the pendency of the suit. Subsequently, the plaintiff had filed her affidavit by way of evidence along with the relevant documents. The *ex parte* evidence was closed on 21.08.2013 and the suit was forwarded to the Court on 23.10.2013. Even thereafter, none had appeared on behalf of the

defendants to contest the suit. Same is the position today.

6. The Court has perused the averments made in the plaint and the affidavit by way of evidence filed by the plaintiff in support of the said averments and taken into consideration the documents filed by her and marked as Ex.PW-1/1 to Ex.PW-1/6A.

7. As the suit has remained uncontested throughout, the averments made by the plaintiff in the plaint are accepted as true and correct. The suit is decreed in favour of the plaintiff by passing a decree of permanent injunction restraining the defendants, their agents, successors, assigns etc., from causing any interference/obstruction in her peaceful possession, occupation and used of the subject land, as detailed in the site plan (Ex.PW1/2), alongwith costs.

8. Decree sheet be drawn accordingly.

APRIL 29, 2015

rkb/ak

(HIMA KOHLI)
JUDGE