

\$~27

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

+ CS(OS) 3259/2015 & IAs No.22881-82/2015

MRS MAYA DULANI Plaintiff
Through : Mr. Vinod Thakur, Advocate
versus

SHRI GOPAL DULANI & ANR Defendants
Through : Mr. Dinesh Garg, Advocate
for D-1 with D-1 in person.
Ms. Rachna Aggarwal, Advocate for D-2.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% 30.10.2015

1. The plaintiff (wife of defendant No.1) has instituted the present suit praying *inter alia* for a decree of permanent injunction restraining defendant No.1 from executing the sale deed in respect of the entire ground floor with front lawn and rear courtyard along with the right to construct a basement in the event of reconstruction of premises bearing No.C-29, New Delhi South Extension Part-I, New Delhi measuring 200 sq. yards.

2. In the alternative, the plaintiff has prayed for a decree against the defendant No.1 directing him to pay a sum of Rs.21.00 lacs within a period of one week from the date of execution of the sale deed in respect of the suit premises in favour of defendant No.2, the proposed purchaser. Counsel for the plaintiff hastens clarify that the present suit is directed against the defendant No.1 alone and defendant No.2

has only been impleaded as a proforma party.

3. Mr. Garg, learned counsel for the defendant No.1 enters appearance and states that the relationship between the plaintiff and his client is strained and the plaintiff is harbouring an impression that the defendant No.1 shall not abide by the promise made by him to his deceased mother that he would pay her 50% of the sale consideration received in respect of the ground floor of the suit premises. He states that out of the total sale consideration of Rs.42.00 lacs, the defendant No.1 has received a sum of Rs.5.00 lacs from the defendant No.2 towards earnest money and he has assured the plaintiff that upon receiving the balance sale consideration, he shall pay a sum of Rs.21.00 lacs to her at one go. However, due to sheer lack of faith, the plaintiff is apprehensive that the defendant No.1 may not abide by his assurance.

4. Counsel for the plaintiff states his client had called upon the defendant No.1 to pay her 50% of the earnest money, but he had refused to do so and instead stated that he will pay 50% of the entire sale consideration at one go and in this background, the plaintiff has had to approach this Court for protecting her interests in the suit premises.

5. Counsel for the defendant No.1 states, on instructions from his

client, that he shall not renege from the assurance given to the plaintiff that he will pay 50% of the entire sale consideration to her in respect of the ground floor of the suit premises within one week from the date of execution of the sale deed in favour of the defendant No.2. He agrees to give a written intimation to the plaintiff of the date fixed for executing the sale deed of the suit premises so that the period of one week can be reckoned therefrom.

6. Both the parties state that in view of the assurance given by the defendant No.1, as recorded above, the suit may be disposed of.

7. In view of the submissions made by the counsels for the plaintiff and the defendant No.1 that the dispute between the wife and the husband with regard to payment of 50% of the sale consideration in respect of the suit premises would stand resolved on the defendant No.1 paying a sum of Rs.21.00 lacs to the plaintiff within one week from the date of execution of the sale deed, the suit is disposed of, along with the pending applications, while binding the defendant No.1 to the statement recorded herein above.

8. File be consigned to the record room.

HIMA KOHLI, J

OCTOBER 30, 2015
sk