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

+ CM(M) 933/2016

RANJIT SINGH & ANR

..... Petitioners

Through

Mr.Rajesh Yadav & Mr.Dhananjay
Mehlawat, Advocates

versus

RAJPAL YADAV & ORS

..... Respondents

Through

None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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19.09.2016

CM No.34261/2016 (exemption)

Allowed subject to all just exceptions.

CM(M) 933/2016 & CM No.34260/2016

1. By the present petition, the petitioners seek to impugn the order dated 02.09.2016 whereby no *ex-parte* interim relief was granted.
2. The petitioners have filed the present suit for permanent injunction against the respondents to restrain them from asserting/exercising any rights and from selling, alienating, transferring, creating any third party rights and interest in respect of the suit land, which is the land measuring 6 bighas and 16 biswas, comprised in Khasra Nos.37/1(4-16) and 10/1(2-0) to the extent of 1/96 share, situated in the revenue estate of village Samalka, Tehsil Vasant Vihar, New Delhi.
3. The learned counsel appearing for the petitioners submits that the petitioners had bought the property in question, i.e. 1/32 share from

Sh.Jamna Das vide Agreement to Sell, Will etc. dated 18.09.2001. Subsequently, an application was filed by the respondents/the sons of Late Sh.Jamna Das to have mutation done in their favour. The concerned officer, SDM/RA, Vasant Vihar vide order dated 20.07.2009 granted mutation in favour of the respondents.

4. The said order was challenged in appeal. In appeal the matter was compromised and the Deputy Commissioner vide order dated 09.04.2013 allowed the appeal of the petitioners and quashed the order of the mutation dated 20.07.2009.

5. It is urged that pursuant to the said order of the Deputy Commissioner, 1/48 share in the said land was mutated in favour of the petitioners. It is also pointed out that for 1/48 share in the property, Sh.Jamna Das also executed a relinquishment deed in favour of the petitioners. Based on the said title document which was executed by Late Sh.Jamna Das, the petitioners have also sought mutation of 1/96 share in the property, which is now sought to be sold by the respondents. It is urged that on account of certain disputes in the family of Late Sh. Jamna Das, mutation of 1/96 share in the property was not done and there is a delay in effecting the mutation.

6. It is urged that the respondents have now applied for NOC from the concerned officer for effecting sale of the said property. It is urged that in case protection is not granted by this court, by the time the matter comes up before the trial court on 28.09.2016, the respondents would have sold the property. Hence, it is urged that the impugned order dated 02.09.2016 suffers from a material irregularity and illegality as despite a strong *prima facie* case and balance of convenience being in favour of the petitioners, the

trial court did not exercise its power and did not pass an *ex-parte* interim injunction in favour of the petitioners.

7. In view of the narration of the facts and keeping in view the order of the Deputy Commissioner dated 09.04.2013, it is clear that the petitioners have made out a case that in case an injunction is not granted in their favour, they will suffer irreparable loss and injury. Accordingly, till the next date before the trial court, i.e. 28.09.2016 the respondents are restrained from selling/alienating the suit property. The trial court may dispose of the application of the petitioners under Order 39 Rule 1 and 2 CPC as per law uninfluenced by any observations made by this court in the present order. The trial court may, if it thinks fit continue the present interim order till adjudication of the injunction application. The petition stands disposed of in above terms.

A copy of this order be given *dasti* under the signature of the court master to the petitioners.

JAYANT NATH, J.

SEPTEMBER 19, 2016/v