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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **FAO(OS) No.255/2016**

Date of Decision: 17th May, 2017

GURHARDIP SINGH Appellant

Through Mr.Rajat Aneja, Adv. with
Ms.Chandrika Gupta, Adv.

versus

HARPREET KAUR AND ORS Respondent

Through Mr.G.S. Bhatia, Adv. for R-1 & LRs
of R-2.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE REKHA PALLI, J

SANJIV KHANNA, J (ORAL)

1. This appeal under Section 10 of the Delhi High Court Act, 1966, impugns the order dated 19th November, 2015 passed in CS (OS) No.3410/2014 Gurhardip Singh Vs. Harpreet Kaur & Ors.

2. The impugned order dated 19th November, 2015 was passed after an application for impleadment was filed by Gurjeet Singh Chawla & Guneet Kaur Chawla, respondent nos.3 & 4 respectively before us.

3. In order to appreciate the controversy, we would like to note some facts. Respondent nos.3 & 4 had purportedly purchased second floor of Property No.WZ 61, Guru Nanak Nagar, Main Road, Near CRPF Camp, New Delhi vide sale deed dated 15th March, 2011 executed by Harpreet Kaur (respondent no.1 before us), wife of respondent No.2-Avtar Singh, who has since expired and is being

represented by his legal heirs.

4. Smt.Harpreet Kaur, subsequently entered into an agreement to sell dated 19th October, 2011 with the present appellant Gurhardip Singh, who was purportedly the owner of the plot and had earlier entered into a building construction agreement with Late Avtar Singh in 2008.

5. Gurhardip Singh has filed criminal case and also the aforesaid civil suit being CS (OS) No.3410/2014 for recovery of Rs.57,00,000/- i.e. consideration paid and interest accrued thereon. As per the settlement agreement dated 26th August, 2015 recorded by the Delhi High Court Mediation & Conciliation Centre in the aforesaid suit, the first respondent had agreed to pay Rs.35,00,000/- to the appellant as per the terms stipulated therein and the said amount stands paid. The appellant had agreed to hand over vacant and peaceful possession of the second floor of the property to the first respondent on or before 2nd November, 2015. That this Agreement also recorded the fact that as per earlier Settlement Agreement arrived at between the parties, the FIR filed by the appellant being FIR No.909/2014 dated 24th August, 2014 registered at Police Station Hari Nagar, New Delhi, had been quashed by the High Court in Crl.M.C. No.2496/2015 on 29th May, 2015.

6. The order dated 29th May, 2015 passed in Crl.M.C. No.2496/2015 quashing FIR No.909/2014 passed by the Single Judge of the High Court, records that the quashing had taken place pursuant to the settlement between the appellant, Late Avtar Singh and Harpreet Kaur i.e. the first respondent. Clause 6 of the said

settlement agreement reads as under:-

“6) That The First Party also agreed to handover the possession of the property ie Second Floor of WZ-61 (Plot No.-255 to Plot No.258) Guru Nanak Nagar Opp Tilak Nagar New Delhi-18 to its rightful claimant in the Court.”

7. The impugned order dated 19th November, 2015 after recording the facts and also the contention raised by the third and fourth respondents, had directed the appellant to deposit Rs.35,00,000/- and to keep the settlement agreement dated 26th August, 2015 in abeyance. The deposit made was directed to be kept in fixed deposit receipt. The keys of the floor were also directed to be deposited by the appellant in court. The last direction given is that the parties shall immediately approach the learned Additional District Judge in the suit instituted by the third and fourth respondents under Section 6 of the Specific Relief Act, for seeking appropriate directions/permissions against the present appellant; respondent no.1 and Late Avtar Singh now represented by the legal representatives.

8. The impugned order refers to interim order dated 29th April, 2014 passed in the civil suit filed by the third and fourth respondents and records that there was no explanation forthcoming from the appellant and respondent nos.1 & 2 as to why a copy of the interim order dated 29th April, 2014 was not filed and was not brought to the notice of the Court. It may be noted that the interim order dated 29th April, 2014 in the said civil suit restrains the appellant and respondent nos.1 & 2 from creating third party right or from transferring or alienating the property.

9. We find that the Single Judge was right in making observations as facts including interim order dated 29th April, 2014 passed in the suit filed by the third and fourth respondents, were withheld from the court.

10. However, counsel for the appellant had stated before us on 2nd May, 2017 that he has no objection if the keys of the floor/property are given to the rightful claimant. Today, counsel for the appellant states that he has no objection if the keys are given to third and fourth respondents i.e. Gurjeet Singh Chawla and Guneet Kaur Chawla respectively.

11. By order dated 2nd May, 2017, we had given time to the counsel appearing for the first respondent and legal representative of the second respondent, to obtain instructions and in case he had any objection to handing over the keys to the third and fourth respondents, to file objections. It is stated that objections have been filed though belatedly. They are lying under office objections. In view of the order we intend to pass, on the basis of the statements made, we are not inclined to adjourn the case.

12. Counsel for the first respondent and legal representative of the second respondent states that in principle, he would not have any objection, albeit they have raised objections in the written statement filed in the suit under Section 6 of the Specific Relief Act. Learned counsel for the third and fourth respondents states that the objections raised have no merit and in particular reference is made to paragraph 6 of the settlement agreement dated 23rd May, 2015 quoted above.

13. The matter was passed over to enable the counsel for the parties

to consider whether the third and fourth respondents are ready and willing to file an application before the Trial Court where suit under Section 6 of the Specific Relief Act, is pending which would then decide whether the keys which are deposited in the court, should be handed over to the said respondents.

14. On the matter being called on second occasion at 2.15 p.m., counsel for third and fourth respondents on instruction states that they shall be filing an application in the suit filed under Section 6 of the Specific Relief Act, for handing over of the keys of the property, which are deposited in this court, to them. The keys would be handed over to the party in terms of the direction issued by the court in the said case.

15. Learned counsel for the appellant states that he would not have any objection if the court directs that the keys are handed over to third and fourth respondents.

16. Counsel for the first respondent and legal representatives of the second respondent states that he would abide by the decision in the application in suit under Section 6 of the Specific Relief Act. He further states that they would not delay filing of the reply and would pray for expeditious disposal of the said application.

17. We, accordingly, dispose of the present appeal taking the statement made by counsel for the parties on record and observe as under:-

(1) The keys of the floor/property will remain deposited in the court and the parties will abide by the order passed in the application to be filed by the respondent nos.3 & 4 in the suit under Section 6 of

the Specific Relief Act.

(2) We request the Trial Court to take up the application when filed for hearing expeditiously. The Trial Court would not grant adjournment and ask the parties to adhere to time schedule for filing of reply etc. and arguments.

(3) The appellant no longer claims any right, title and interest in the property and has accepted the payment of Rs.35,00,000/- from the first respondent and Late Avtar Singh.

(4) To this extent, the dispute between the appellant and the first and second respondents stands resolved. The aforesaid settlement would not be binding and would not affect the rights of the third and fourth respondents.

(5) In view of the aforesaid directions, the appellant need not deposit Rs.35,00,000/- in the court.

(6) The impugned order dated 19th November, 2015 is modified to the extent indicated above.

18. We clarify that we have not commented upon merits and demerits of the criminal prosecutions/FIRs which are pending trial or investigation. The appeal is disposed of.

Dasti.

(SANJIV KHANNA)
JUDGE

(REKHA PALLI)
JUDGE

MAY 17, 2017/aa