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

+ FAO(OS) 183/2013

RAHUL GUPTA

..... Appellant

Through : Mr. Jasmeet Singh, Adv.

versus

PRATAP SINGH & ORS.

..... Respondents

Through : Mr. A.P.S. Ahluwalia, Sr.
Adv. with Mr. S.S.
Ahluwalia and Mr. Jatin
Teotia, Advs. for R-1.
Mr. Pawan Mathur, Standing
Counsel for DDA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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28.08.2018

We have heard learned counsel for the parties.

The appellant's grievance is that the application moved by the respondents (Mr. Pratap Singh), under Order I Rule 10 of the CPC ought to have been allowed by the Ld. Single Judge.

The appellant had filed a suit claiming to be the person interested and also transferee of a plot in Motia Khan Dump Scheme - said to have been allotted/handed over by the Delhi

Development Authority sometime in 1978. According to the suit, Late Shri Brij Lal Mehra and Late Shri Gurdayal Singh were owners and co-allottees of the suit property. It is not in dispute that Shri Brij Lal Mehra was survived by three offspring – two sons, namely, Shri Om Prakash Mehra and Shri Roshan Lal Mehra and one daughter, namely, Kanchan. Both these sons had expired in the year 1999 and only the daughter Kanchan is alive. She too is a party to the suit. The plaintiff/appellant claims to be the transferee through the Administrator (Shri Rajender Singh, brother of the other co-allottee Late Shri Gurdayal Singh) appointed by the court. According to the plaintiff, the property was transferred by Shri Rajender Singh to one Smt. Darshan Kaur through registered agreement to sell and general power of attorney in the year 1979, who thereafter further sold it to the plaintiff in March, 2007.

The respondent/impleaded party applicant, claimed to be the son of Shri Rajender Singh and alleged that the so called sale/sale transaction by Shri Rajender Singh to Smt. Darshan Kaur, is not genuine.

Based upon the *prima facie* consideration of the submission of the parties and having regard to the documents on record, the Ld. Single Judge allowed the application and impleaded Shri Pratap Singh.

The court has considered the submissions of the parties. As to whether Shri Pratap Singh indeed has any right or is bound by

the transfer set-up by the plaintiff (i.e. through the GPA and agreement to sell transactions in favour of Smt. Darshan Kaur in 1979) are the subject matter of the suit which would be gone into by the Court.

In these circumstances and having regard to the state of record (since the suit record was part of record), we are of the opinion that no interference is called for with the impugned order. It cannot be disputed that the plaintiff would have the right to urge all contentions including the question of limitation, which would be available in accordance with law, vis-a-vis the pleas set-up by the impleaded party defendant (Shri Pratap Singh).

This appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 28, 2018

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