

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

% **Date of decision: 15th May, 2018.**

+ **CS(OS) 619/2016**

SANJEEV GUPTA & ORS.

..... Plaintiffs

Through: Mr. Lalit Gupta, Mr. Siddharth and
Mr. Akshit. Katyaal, Advs.

Versus

MANOJ LOHARIA

..... Defendant

Through: Mr. Nazim U. Ahmed, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The four plaintiffs namely (i) Sanjeev Gupta; (ii) Rajiv Gupta; (iii) Gaurav Gupta; and, (iv) Kamini Gupta have instituted this suit for,

(a) declaration that they are the exclusive owners of plot of land *ad measuring* 150 sq. yds. out of Plot No.22, Block No.X situated in the layout plan of Naraina Warehousing Scheme, Loha Mandi, Naraina, New Delhi – 110 028 including leasehold rights in the said land and the construction thereon;

(b) declaration that there exists a valid and legally binding oral Family Settlement between Hari Prakash Gupta, being the father of the plaintiffs no.1 to 3 and the husband of the plaintiff no.4 and the defendant and under the said Family Settlement, the defendant Manoj Loharia has been left with no right in the aforesaid property and that the said Family Settlement is binding on the defendant and his legal heirs;

(c) for permanent injunction restraining the defendant from alienating, encumbering or parting with possession of the property; and,

(d) for permanent injunction restraining the defendants from forcefully dispossessing the plaintiffs from the property aforesaid.

2. The suit was entertained and summons thereof ordered to be issued. The plaintiffs, though filed an application for interim relief along with the plaint, did not press the same perhaps to prevent scrutiny of the plaint at that stage and prevent immediate rejection/dismissal thereof.

3. The defendant has filed a written statement along with an application for condonation of delay in filing thereof and an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC).

4. Having gone through the plaint and being *prima facie* of the opinion that the suit, on the averments in the plaint, is not maintainable, I have enquired from the counsel for the plaintiffs and heard the counsel for the plaintiffs.

5. It is the case of the plaintiffs in the plaint, that (i) Plot No.22, Block No.X, Naraina Warehousing Scheme, Loha Mandi, Naraina, New Delhi *ad measuring* 300 sq. yds. was allotted by the Delhi Development Authority (DDA) to Ram Avtar Gupta father of the defendant and one Chander Sagar Gupta, as partners of M/s. Indian Iron Traders Corporation; (ii) Ram Avtar Gupta occupied the Western half of the aforesaid plot *ad measuring* 150 sq. yds. and Chander Sagar Gupta occupied the Eastern half of the aforesaid plot adjoining Plot No.X-21 *ad measuring* 150 sq. yds.; (iii) Ram Avtar Gupta had no funds even to raise any construction on his half portion

towards the Western side and entered into an arrangement with his co-brother Hari Prakash Gupta whereunder actual physical possession of the said Western half portion of the property aforesaid was handed over by Ram Avtar Gupta to Hari Prakash Gupta and Hari Prakash Gupta raised construction thereon with his own funds; money was also paid by Hari Prakash Gupta to Ram Avtar Gupta; (iv) since the land was leasehold, Ram Avtar Gupta executed documents like General Power of Attorney (GPA) / Contract of Construction etc. all dated 25th October, 1976 in favour of Hari Prakash Gupta in respect of the Western half of the property; (v) Hari Prakash Gupta continued to use, enjoy and possess the aforesaid property in his own independent rights; (vi) after initial allotment, a Perpetual Lease Deed dated 5th February, 1981 was executed by DDA in favour of Ram Avtar Gupta and Chander Sagar Gupta and the said Perpetual Lease Deed was registered; (vii) subsequently, Ram Avtar Gupta and Chander Sagar Gupta got permission from DDA to transfer their respective rights in the property in favour of their respective sons and both executed Conveyance Deed dated 2nd April, 1982 in favour of their respective sons i.e. Ram Avtar Gupta in favour of defendant herein and Chander Sagar Gupta in favour of his son Abhey Gupta; (viii) the defendant and aforesaid Abhey Gupta also got the property mutated in their name on 15th July, 1982; (ix) a formal Partition Deed dated 23rd May, 1997 was executed between the defendant and the said Abhey Gupta and as per which Partition Deed also, the Western half of the plot adjoining Plot No.X 23 fell to the share of the defendant and the Eastern half to the share of Abhey Gupta aforesaid; (x) Abhey Gupta has already executed documents of transfer of title of his half of the property in favour of different third parties; the said half of the

properties is not subject matter of the present suit; (xi) because wives of Ram Avtar Gupta and Hari Prakash Gupta were sisters, Ram Avtar Gupta and Hari Prakash Gupta were co-brothers and members of family; (xii) it is recorded in the Partition Deed dated 23rd May, 1997 between the defendant and Abhey Gupta that the original documents pertaining to the entire property had been misplaced; (xiii) to avoid any unnecessary dispute in future, on or around 14th January, 1998, an oral Family Settlement was entered into between Hari Prakash Gupta on the one hand and defendant on the other hand and wherein it was agreed that the Western half of the property *ad measuring* 150 sq. yds. comprising of ground, first, second and third floors shall be exclusively owned by and belong to Hari Prakash Gupta as absolute owner and the defendant would have no right therein and Hari Prakash Gupta would pay a further sum of Rs.1,40,000/- to the defendant towards all claims, rights, title or interest of the defendant in respect of the property; (xiv) the aforesaid Family Settlement was acted upon and Hari Prakash Gupta immediately paid agreed amount of Rs.1,40,000/- to the defendant but no receipt was executed by the defendant of the said amount, stating that since Hari Prakash Gupta was already in possession of the property, there was no need therefor and it was also stated that there was no need for getting any further documents of title executed from the defendant in respect of the property; (xv) Hari Prakash Gupta expired on 27th March, 2013 leaving the four plaintiffs as his heirs; (xvi) law recognises oral Family Settlement between family members; (xvii) the plaintiffs no.1 to 3 are carrying on their business in the name and style of Techno Steels from the aforesaid property; and, (xviii) that since 31st

October, 2016, the defendant has started disputing the terms of the oral Family Settlement and hence the need for the present suit.

6. The plaintiffs, along with the plaint, have filed (i) photocopy of the possession letter dated 21st July, 1975 executed by DDA and Ram Avtar Gupta and Chander Sagar Gupta; (ii) photocopy of General Power of Attorney (GPA) dated 25th October, 1976 stated to have been executed by Ram Avtar Gupta in favour of Hari Prakash Gupta; (iii) photocopy of Agreement of Contract of Construction dated 25th October, 1976; (iv) photocopy of Conveyance Deed dated 2nd April, 1982 executed by Ram Avtar Gupta and Chander Sagar Gupta in favour of defendant and Abhey Gupta; (v) photocopy of letter dated 15th July, 1982 issued by DDA of mutation of the property in favour of defendant and Abhey Gupta; (vi) photocopy of Partition Deed dated 23rd May, 1997 executed between defendant no.1 and Abhey Gupta; (vii) photocopy of Property Tax Receipt dated 29th June, 2016 in the name of Hari Prakash Gupta; (viii) photocopy of allotment of Trader Identification Number (TIN) number in the name of Techno Steels; (ix) photocopy of other documents to show possession of the plaintiffs of the property; and, (x) photocopy of the Property Tax Receipt dated 31st August, 2001 in the name of Hari Prakash Gupta.

7. I have enquired from the counsel for the plaintiffs as to how, on the basis of averments aforesaid in the plaint, the plaintiffs can be declared as the owners of the property. The plaintiffs admit title of the property to be earlier in the name of Ram Avtar Gupta and now in the name of the defendant. Per law, title in immovable property cannot be transferred / conveyed save by a registered document. Admittedly there is no registered

document in favour of the plaintiffs. If pleas, such as of oral Family Settlement between co-brothers and / or between a husband of one sister and son of another sister were to be permitted, then I have enquired from the counsel for the plaintiffs, why would anyone pay Stamp Duty and registration charges for transfer of a property and everyone would rush to the Court of the Civil Judge and paying court fees of Rs.13/-, obtain declarations of ownership of the property.

8. It is not as if the property aforesaid was inherited by the wives of Ram Avtar Gupta and Hari Prakash Gupta from their common ancestor and qua which a Family Settlement could have been pleaded. It is the admitted case of the plaintiffs that the property was acquired by Ram Avtar Gupta from the DDA and Ram Avtar Gupta transferred the said property to his son i.e. the defendant who got the property mutated in his name.

9. The counsel for the plaintiffs has then contended that though at the time when the GPA and Agreement to Construct were executed, the intent was to transfer the property in favour of Hari Prakash Gupta but owing to the land underneath the property being leasehold and being not transferable, the same was not done.

10. Though such pleas had found favour with the Division Bench of this Court in *Asha M. Jain Vs. Canara Bank* (2001) 94 DLT 841 but the said judgment has been expressly overruled by the Supreme Court in *Suraj Lamp and Industries Private Limited Vs. State of Haryana* (2009 7 SCC 363 and (2012) 1 SCC 656 and it has been held that such documents as GPA and Agreement to Construct cannot form documents of title to the property and cannot vest title to immoveable property.

11. Moreover, even when such practice was in vogue in Delhi, GPA, Special Power Attorney, Agreement to Sell, Will etc. with respect to the property were obtained from the seller in favour of the purchaser and / or the nominees of the purchaser. The plaintiffs here, though have pleaded a GPA and an Agreement to Construct, have not pleaded an Agreement to Sell and / or a GPA authorising Hari Prakash Gupta predecessor of the plaintiffs to sell the property.

12. A perusal of the photocopy of the GPA shows, Hari Prakash Gupta to have been constituted as the attorney for the purposes of making applications for obtaining the approval and sanction of a building plan for construction on the aforesaid land and to do all other acts, deeds and things in that regard and to let out on rent or otherwise, the property to be built and to receive the rents and to apply for permission for transfer of leasehold rights in the land in favour of any person and for that purpose to furnish all documents and execute all documents and to give undertakings.

13. Though the counsel for the plaintiffs has been interrupting to say that the Power of Attorney also includes a power to sell but I am unable to read any such power therein. Clauses 10 & 11 of the said Power of Attorney may be reproduced herein as under:-

“10. To apply for permission of transfer of leasehold rights of the aforesaid portion of plot X/22, Naraina in favour of any person from the D.D.A./L&D.O. and for that purpose to furnish all documents and execute all documents on behalf of the Executant.

11. To give any undertaking for the purpose of obtaining the said permission.

GENERALLY to do each and every thing in connection with touching or arising out of the above-said plot X/22 Naraina and the construction of super-structure thereon;”

14. The aforesaid Clauses do not by any stretch of interpretation authorise predecessor of the plaintiffs to sell the property and to realise the sale consideration as was normally to be found in Power of Attorneys executed at the time when Agreements to Sell in lieu of Sale Deeds were in vogue.

15. Similarly, the relevant Clauses of the photocopy of the Agreement to Contract of Construction dated 25th October, 1976 between Ram Avtar Gupta and Hari Prakash Gupta and in which Ram Avtar Gupta is described as the first party and Hari Prakash Gupta as the second party are reproduced herein below:-

“AND WHEREAS the first party has agreed to give and assign the contract of construction on one half area of the said plot and also to procure the necessary building material for the purpose at his own cost;

AND WHEREAS the Second Party has deposited with the second party a security amount of Rs.25,000/- (twenty five thousand only) by means of cheque No: dated drawn on (Bank) which amount shall remain as security with the first party for the proper performance of the contractual obligations undertaken by the second party and this security will only be refundable on the completion of the said contract and shall carry interest @ 18% p.a.

6. That as long as the first party does not pay the above-said amount to the second party, the second party shall

continue in possession of the said property and shall also in the meanwhile entitled to let out to tenants or other persons on payment of rent, damages, mesne profits and to himself use the same and enjoy the same for his own purposes as also any business and shall also be entitled to retain such income from the said property without any liability of rendering any account for such income or user to the first party. Of course, during all this period the second party shall pay the lease money and/or other Government charges including house tax for the said property, electric and water bills in respect of the said property and shall keep indemnified the first party of all such liabilities.

7. That in the event of the first party not in a position to pay to the second party the above-said sums as detailed hereinabove up to ten years, the second party shall have the option to purchase the leasehold rights of the said plot for a sum of Rs.25,000/- (twenty five thousand only) the ownership of super-structure already vesting in the Second party, and the conveyance deed will be got executed in his favour or in favour of his nominee at the cost of the second party.”

16. The aforesaid documents of the plaintiffs also show that what the plaintiffs have pleaded in their plaint is contrary to their own documents. As per the Agreement of Contract of Construction, the predecessor of the plaintiffs was entitled to retain possession only till repayment by Ram Avtar Gupta of the cost of construction to him and in the event of non-payment by Ram Avtar of the cost of construction within ten years, the predecessor of the plaintiffs had an option to purchase the leasehold rights

of the plot for a sum of Rs.25,000/- as the ownership of the superstructure thereon vested in Hari Prakash Gupta, predecessor of the plaintiffs.

17. The plaintiffs have not pleaded having exercised the option to purchase. On the contrary, the plaintiffs have pleaded knowledge of execution of Conveyance Deed by Ram Avtar Gupta in favour of defendant and which itself shows that the plaintiffs / their predecessor waived the option to purchase.

18. In any case, the plaintiffs even now have not sued for specific performance of the Agreement to Sale and have sued for declaration of having become owners of the property by virtue of the documents aforesaid and which plea of the plaintiffs is contradictory to the documents of the plaintiffs themselves.

19. The counsel for the plaintiffs has contended that as per the Clause 7 supra of the Agreement of Contract of Construction aforesaid, the superstructure already vested with the predecessor of the plaintiffs.

20. The said superstructure was attached to earth and would also constitute immovable property and no transfer thereof without a registered document was / is possible.

21. The counsel for plaintiffs is unable to controvert.

22. Be that at it may, the plaintiffs are free to take away their superstructure if are claiming any rights therein. The said superstructure in any case appears to be illegal and liable to be demolished by the Municipality.

23. Similarly, the plea of the plaintiffs in the plaint, of an oral Family Settlement with the defendant on 14th January, 1998, is no plea in law. Merely because of existence of a relationship, the parties do not constitute a family and within members of which family, law recognises a Family Settlement, to save the honour of the family. It is also not the case of the plaintiffs that Ram Avtar Gupta and Hari Prakash Gupta at any point of time were residing or messing together or living as members of one family or their families were ever residing together.

24. The counsel for the plaintiffs has referred to page 208 of ***Kale Vs. Deputy Director of Consolidation*** (1976) 3 SCR 202 to contend that it is not essential to constitute a family that all members should be messing together and residing together.

25. Supreme Court in ***Kale*** supra, in the paragraph of the judgment to which attention is drawn, has held (a) that the principles which apply to the case of ordinary compromise between strangers, do not equally apply to the case of compromises in the nature of family arrangements; (b) that family arrangements are governed by a special equity peculiar to themselves and will be enforced if honestly made; (c) that the object of the arrangement is to protect the family from long drawn litigation or perpetual strifes which mar the unity and solidarity of the family; (d) that a family arrangement by which the property is equitably divided between the various contenders so as to achieve an equal distribution of wealth instead of concentrating the same in the hands of a few is undoubtedly a milestone in the administration of social justice; (e) that is why the term “family” has to be understood in a wider sense so as to include within its fold not only close relations or legal

heirs but even those persons who may have some sort of antecedent title, a semblance of a claim or even if they have a *spes successionis* so that future disputes are sealed forever and the family instead of fighting claims *inter se* and wasting time, money and energy on such fruitless or futile litigation is able to devote its attention to more constructive work in the larger interest of the country; (f) that the Courts have therefore leaned in favour of upholding a family arrangement instead of disturbing the same on technical or trivial grounds. On the very next page 210 of the report, it has been reiterated that the members who may be parties to the family arrangement must have some antecedent title, claim or interest, even a possible claim in the property which is acknowledged by the parties to the settlement; even if one of the parties to the settlement has no title but under the arrangement the other party relinquishes all its claims or titles in favour of such a person and acknowledges him to be the sole owner, then the antecedent title must be assumed and the family arrangement will be upheld and the Courts will find no difficulty in giving assent thereto.

26. What I understand from the aforesaid judgment and otherwise is that the requisite of the family arrangement is an antecedent title of the members of the family to a property. In the present case, the predecessor of the plaintiffs had no antecedent title to the subject property which is admitted to be the self-acquired property of the predecessor of the defendant. It is the case in the plaint itself that the predecessor of the defendant, having no funds to raise construction on the land underneath the subject property, entered into an arrangement with the predecessor of the plaintiffs and the terms whereof were recorded in the agreement of contract of construction aforesaid. As would be evident from the terms of the agreement of contract

of construction, the transaction between the predecessor of the defendant and the predecessor of the plaintiffs was a commercial one, for a consideration of Rs.25,000/-. The parties had agreed that upon the predecessor of the defendant being unable to repay the said consideration of Rs.25,000/- within ten years, the predecessor of the plaintiffs will have an option of purchasing the property. It is thus quite evident that the predecessor of the defendant who is admitted to be the exclusive owner of the property had agreed to transfer title thereof to the predecessor of the plaintiffs for the consideration aforesaid. The law prescribes the mode in which such transaction is to be effected and is to be enforced. The predecessor of the plaintiffs did not do the transaction in the manner prescribed in law and has failed to enforce the transaction in the manner prescribed in law. When by the said law, no title under the transaction has been conveyed from the predecessor of the defendant to the predecessor of the plaintiffs, merely because the predecessor of the defendant was related to the predecessor of the plaintiff would not change the nature of the transaction from a commercial one to a family arrangement. The purport of the Court, as aforesaid, is to not disturb family arrangements to settle disputes arising from commonality. Here, there was no commonality qua the subject property, now claimed to be subject matter of a family arrangement. The explanation aforesaid in **Kale** supra that “even if one of the parties to the settlement has no title.....” cannot be extended to validate commercial transactions, between relatives, not done in accordance with law, by putting a cloak of family arrangement on them. Supreme Court, in **Kale** supra has clarified that a family arrangement where the parties had no antecedent title is accepted where it is by way of an arrangement of give

and take. Here, there was no give and take between the predecessor of the defendant and the predecessor of the plaintiffs and it was only a transaction as described in the agreement of contract of construction and to get over lacuna wherein name of family arrangement is sought to be given thereto.

27. Similarly, the subsequent transaction of the year 1998 between the parties also, as per averments in the plaint, is of payment of further consideration of Rs.1.40 lacs for all claims, rights, title and interest of the defendant in the property and which is again a commercial transaction of agreement of sale and which has also not fructified, to vest title thereunder. Again, to get over the said lacuna, nomenclature of family arrangement is being given thereto.

28. Supreme Court in ***Sundaram Finance Ltd. Vs. State of Kerala*** AIR 1966 SC 1178 held that the true effect of a transaction may be determined from the terms of the agreement considered in the light of the surrounding circumstances. Similarly, in ***Puzhakkal Kuttapu Vs. C. Bhargavi*** (1977) 1 SCC 17, it was held that in considering a document, it is necessary to find the intention of the party executing it and the intention has to be gathered from the recitals and the terms of the entire agreement and the surrounding circumstances. The counsel for the plaintiffs herein, during arguments also, as recorded above has contended that owing to the land underneath the property being leasehold, the transaction of sale could not be effected and thus the sale was effected by execution of the GPA and the agreement of contract of construction. The same itself is an admission of the true nature of the transaction being a transaction of sale and purchase and not to settle by way of settlement or arrangement, a dispute arising out

of one member of the family claiming / asserting title and the other member of the family denying the same. Supreme Court, in ***S.K. Sattar S.K. Mohd Choudhari Vs. Gundappa Ambadas Bukate*** 1996 (6) SCC 373, though in the context of a challenge by a tenant to a partition claimed by the landlord to seek eviction of a tenant, after noticing ***Kale*** supra held (a) a family arrangement as distinct from a transfer of the property, is a transaction between members of the same family for the benefit of the family so as to preserve the family property, the peace and security of the family, avoidance of family disputes and litigation and for saving the honour of the family; (b) such an arrangement is based on the assumption that there was an antecedent title in the parties and the agreement acknowledges and defines what that title is; and, (c) it is for this reason that a family arrangement by which each party takes a share in the property has been held as not amounting to a “conveyance of property” from a person who has title to it to a person who has no title.

29. In ***Kale*** supra, as also in earlier judgments in ***Tek Bahadur Bhujil Vs. Debi Singh Bhujil*** AIR 1966 SC 292 and ***Ram Charan Das Vs. Girjanandini Devi*** AIR 1966 SC 323, it was held that it was not necessary to show that every person taking a benefit under a family arrangement had a share in the property; it was enough if they had a possible claim or a semblance of a claim.

30. This was explained ***V.N. Sarin Vs. Major Ajit Kumar*** AIR 1966 SC 432 as meaning that each coparcener got a specific property in lieu of his undivided right in respect of the totality of the property of the family.

31. Here, the arrangement alleged is with respect to the one property only i.e. the subject property and the predecessor of the plaintiffs had no antecedent title thereto or any claim with respect thereto except under the commercial transaction aforesaid arrived at with the predecessor of the defendant or with the defendant and the plaintiffs and their predecessor having failed to enforce the said commercial transaction in the manner prescribed by law, cannot be permitted to give it a cloak of family arrangement.

32. Though **Ram Charan Das** supra was noted in **S.K. Sattar S.K. Mohd Choudhari** supra but a separate comment with respect thereto is felt necessary. It was explained by J.R. Mudholkar, J. speaking for a Bench of three Hon'ble Judges, that a compromise by way of a family settlement is in no sense an alienation of the property and the transaction does not amount to a transfer. The contention that the transaction of family settlement amounts to creation of an interest was rejected, reasoning that once a family settlement is not an alienation, it cannot amount to creation of an interest and holding that in a family settlement each party takes a share in the property by virtue of independent title which is admitted to that extent by the other party and it is not necessary that every party taking a benefit under a family settlement must necessarily be shown to have, under the law, a claim to a share in the property. It was further held that all that is necessary is that the parties must be related to one another in some way and have a possible claim to the property or a claim or even a semblance of a claim on some other ground as, say, affection.

33. In the present case, the plaintiffs or their predecessor had no antecedent title to the property or claim to the property and the claim is pleaded only on the basis of commercial transaction.

34. I have in ***Vijay Kumar Taneja Vs. Raj Kumar Taneja*** (2017) 236 DLT 601, and against which no appeal is found to have been preferred, held that a document of surrender of undivided rights in immovable property by some of the heirs of the owner thereof in favour of others having not been done by a registered instrument does not amount to release / relinquishment of shares and does not even fall within the meaning of family settlement. It was further held that similarly, an agreement to sell cannot be a family settlement, the genesis of which is settlement of disputes to avoid litigation and that commercial transaction of sale and purchase, if between family members does not acquire the hue of family settlement. Reliance was placed on ***Yellapu Uma Maheswari Vs. Buddha Jagadheeswararao*** (2015) 16 SCC 787 holding that relinquishment deeds executed by family members, being unregistered, though compulsorily registrable, could not divest the executants thereof a share in the property for the purpose of a suit for partition.

35. Mention may lastly be made of ***Bhagwan Krishan Gupta Vs. Prabha Gupta*** (2009) 11 SCC 33 laying down that although when a property is a self-acquired one, the doctrine of family settlement stricto sensu may not be applicable but in the facts of that case, finding that the two brothers living in the same property which was the self-acquired property of one, had declared each other to be owners of the property having equal share, it was

held that the family settlement was not only in relation to the title of the property but also in relation to the use and possession thereof.

36. In the present case, the agreement by the defendant / his predecessor to allow the predecessor of the plaintiffs to use the property was for consideration and the predecessor of the plaintiffs is claimed to have paid further consideration in the year 1998 to the defendant for acquiring the rights of the defendant in the property. It is not the case that the predecessor of the defendant or the defendant was also in occupation and enjoyment of the property or that the transaction is out of any love and affection.

37. I will however be failing in my duty if do not mention that I had in *Satya Pal Gupta Vs. Sudhir Kumar Gupta* 2013 SCC OnLine Del 2304 also negated the plea of family arrangement finding no antecedent title, but the Division Bench in *Satya Pal Gupta Vs. Sudhir Kumar Gupta* (2016) 230 DLT 73, relying upon *Kale* supra, reversed the said judgment. However neither myself nor the Division Bench noticed the other judgments of the Supreme Court and the passages cited thereof hereinabove.

38. In the aforesaid circumstances, by way of a decree of a Court as sought, title in the property cannot be created.

39. The counsel for the plaintiffs then states, that the Family Settlement is of a date subsequent to the documents aforesaid.

40. I have asked the counsel for the plaintiffs, whether he gives up the documents and if that is so, why were the documents filed before this Court and pleadings with respect thereto made.

41. The counsel for the plaintiffs states that it is a “catch 22 situation” for him.

42. If dishonest pleadings are made, the counsels have to be prepared therefor.

43. The suit is clearly in abuse of process of the Court and has been filed maliciously and is dismissed with costs of Rs.2,00,000/- to the defendant.

44. The date of 17th May, 2018 before the Joint Registrar is cancelled.

Decree sheet be prepared.

MAY 15, 2018
'pp/gsr'..

RAJIV SAHAI ENDLAW, J.



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