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

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Date of Order: 22.01.2019

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F.A.O. No.23/2019 & C.M. No.2750/2019

MUKHTIYAR KHAN

..... Appellant

Through: Mr. Kirti Uppal Sr. Advocate with
Mr. Abhimanyu Redhu & Ms. Syed
Maria Aijaz, Advocates.

Versus

DEVI RAM @ BHAGATJI & ORS

....Respondents

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

1. The impugned order dated 09.01.2019 issued by the court of learned District & Sessions Judge, South-East District, Saket Courts, New Delhi, in Civil Suit No.24/2019 by which he issued notice on the application under Order XXXIX Rule 1 & 2 CPC to the respondents/defendants without granting *ex-parte* ad interim injunction in favour of the appellant, is the subject-matter of challenge in this appeal.

2. Learned senior counsel for the appellant submits that the property in question was initially purchased by him on 18.10.1995 from the recorded owner Smt. Saroopi Devi and photostat copies of the General Power of Attorney, Agreement to Sell, affidavit, Will and

receipt of Rs.11,80,000/- all dated 18.10.1995 are placed on record. Further, he submits that after the death of Smt. Saroopi Devi, some disputes arose between her legal heirs (LRs) and the appellant. He submits that all the LRs of Smt. Saroopi Devi have executed a General Power of Attorney in favour of one of the LRs, Sanjay Kumar on 06.11.2018 and after the settlement of disputes with the LRs of Smt. Saroopi Devi, fresh sale documents were executed in favour of the appellant on 24.12.2018. He submits that the appellant has been in continuous occupation of the suit property since 18.10.1995, however, the respondents/defendants are determined to dispossess him illegally.

3. Learned senior counsel contends that by the impugned order dated 09.01.2019, the learned District & Sessions Judge has not dealt with the application under Order XXXIX Rule 1 & 2 CPC and merely ordered for issuance of notice for 20.02.2019. He further contends that in case the respondents are not restrained from dispossessing the appellant from the suit property, the appellant would suffer irreparable loss and injury and suit will become infructuous.

4. In the facts and circumstances of the case and the copies of sale documents in favour of the appellant placed on record, the parties are directed to maintain the *status quo* with regard to possession of the suit property, till disposal of the application under Order XXXIX Rule 1 & 2 CPC by learned District & Sessions Judge in accordance with law without being influenced by any observation made in this order. Compliance of Order 39 Rule 3 CPC be made within three days.

5. In view of the above, the appeal along with application, being C.M. No.2750/2019, is disposed of.

6. Copy of the order be given *dasti* under signatures of the Court Master.

(VINOD GOEL)
JUDGE

JANUARY 22, 2019
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HIGH COURT OF DELHI



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