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

Reserved on: 2nd July, 2019

Pronounced on: 25th July, 2019

+ **CM(M) 547/2019 & CM Appl. 16342/2019**

HAJI ZAFRUDDIN Petitioner

Through: Mr.S.D.Ansari & Mr.I.Ahmed,
Advocates

versus

FIROZUDDIN Respondent

Through: Mr. Ramkrishan Saini,
Advocate

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CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

1. This petition under Article 227 of the Constitution of India is directed against an order of the ADJ-07 (Central), Tis Hazari Courts, Delhi, dated 07.03.2019 in Suit No.54/2016, whereby the Trial Court has directed the appointment of a Local Commissioner to execute a sale deed in respect of the suit property.

Facts

2. The suit arises out of an Agreement to Sell dated 07.01.2016 between the petitioner/defendant and the respondent/plaintiff. The plaintiff sued the respondent for specific performance of the said

agreement. Pursuant to submissions of the parties held in various orders, the Trial Court by the impugned order recorded that the defendant has failed to execute the sale deed despite having undertaken before the Court to do so, and consequently appointed a Local Commissioner to execute the sale deed on behalf of the defendant. The sale deed has since been executed by the Local Commissioner in favour of the plaintiff.

3. The principal grievance of the petitioner in these proceedings is that the Trial Court has virtually executed the order of specific performance even in the absence of a decree. The learned counsel for the petitioner submitted that the agreement to sell expressly indicated that the defendant wished to construct an additional floor on the suit premises, and stipulated that the plaintiff would permit the defendant to erect four pillars in the suit property to enable such construction on the first floor. The suit property is admittedly a shop on the ground floor of the premises in question. It has been submitted that the plaintiff did not cooperate in the construction sought to be raised and has, after the execution of the sale deed pursuant to the impugned order, in fact filed a suit against the defendant for an injunction restraining the defendant from raising the construction.

4. Learned counsel for the respondent submits that the Trial Court has appointed a Local Commissioner in view of the repeated statements of the defendant that he would execute the sale deed, which he failed to do despite sufficient opportunities being granted. As far as the construction is concerned, it is submitted that the agreement only records the plaintiff's consent to the erecting of four pillars on the

ground floor, which has been done. It is submitted that the defendant has not obtained a sanctioned plan from the Municipal Corporation, as a result of which the plaintiff has sought an injunction against the proposed construction.

5. In order to appreciate the contentions of the parties, the relevant clauses of the agreement to sell dated 07.01.2016 are reproduced below:

“ xxxx xxxx xxxx

*1. That the total sale consideration agreed between the parties is ₹11,50,000/- (Rupees Eleven lacs fifty Thousand Only) out of which Rs.50,000/- (Rupees Fifty thousand only) will be retained by the second party for providing repairs in the shop. **The Ist party may raise four pillars of 9” x 12’ from inside the Shop No. 698 to raise construction above it.***

xxxx xxxx xxxx

3. That out of total sale consideration, Rs.6,00,000/- (Rupees six Lacs only) have already been paid by the second party to the first party and the first party acknowledges the same to have been received.

xxxx xxxx xxxx

5. That a period of two years w.e.f. the date of execution of this agreement has been fixed/settled & the first party shall be bound to execute the sale deed in respect of the shop No. 698, Ground Floor, Haveli Azam Khan, Bazar Chitli Qubar, Jama Masjid, Delhi-110006 on or before, the expiry of the period of two years.

6. That the balance consideration of Rs.5,00,000/- (rupees five Lacs only) shall be paid at the time of execution of the sale deed.

xxxx xxxx xxxx

8. *That, in case, first party fails to execute the sale deed on or before the expiry of two years as fixed aforesaid, the second party shall be entitled to get the sale deed executed through court of law at the expenses of first party.*

xxxx xxxx xxxx ”

[Emphasis supplied]

6. The suit was filed on 12.04.2016 for the following reliefs:

“a) *That a decree for Specific Performance of the Agreement to Sell dated 07.01.2016 may kindly be passed in favour of the Plaintiff and against the defendant including his agents, servants, family members, etc. directing them to execute the Sale-Deed in favour of the Plaintiff in respect of the shop in question bearing No.698, Ground Floor, Haveli Azam Khan, Bazar Chitli Qabar, Jama Masjid, Delhi-110006.*

b) *That a decree for Permanent Injunction may also be passed in favour of the Plaintiff and against the defendant including his agents, servants, family members etc. restraining them from selling, alienating, transferring or creating any third party interest or lien in respect of the shop in question bearing No.698, Ground Floor, Haveli Azam Khan, Bazar Chitli Qabar, Jama Masjid, Delhi-110006.*

c) *That it is alternative it is prayed that in case, this Hon’ble Court comes to conclusion that a decree for Specific Performance cannot be passed for any reason then in that case, the Plaintiff prays that the defendant may be directed to pay the double of the earnest money with interest as agreed in the Agreement to Sell may kindly be ordered to be paid to the Plaintiff.*

d) *The cost of the suit may also be awarded in favour of the Plaintiff.”*

7. The defendant filed his written statement on 24.05.2016, in which one of the defences taken is that the plaintiff was not ready and willing to perform his part of the agreement, particularly with regard to permitting the defendant to raise four pillars in the ground floor of the suit premises to enable it to raise the construction above it. In his replication dated 10.06.2016, the plaintiff has contended *inter alia* that the defendant was proposing to raise an unauthorised construction, However, it has been stated that the plaintiff has never objected to the raising of pillars. By an order dated 06.06.2016, the following issues were framed by the Trial Court:

“1. Whether the plaintiff is entitled for decree for specific performance in respect of the suit property in terms of agreement dated 07.01.2016 as prayed for? OPP

2. Whether the plaintiff is entitled for permanent injunction as prayed for OPP?

3. Whether no cause of action in favour of the plaintiff? OPD

4. Whether the plaintiff is entitled for alternate relief of double the amount of earnest money, as prayed for in the plaint? OPP

5. Relief.”

8. Evidence was thereafter completed and arguments were heard on 02.05.2017 and 23.05.2017. The case was put up for judgment before the Trial Court on 30.05.2017, but was thereafter listed for “clarifications/re-final arguments”. On 04.07.2017, a statement was made by the parties that the matter was likely to be compromised. Several subsequent orders make it clear that the compromise

ultimately did not work out. The matter was listed again for final arguments on 18.07.2018. The defendant then sought time to place on record the name of an architect and an estimate for construction of four pillars. The architect was thereafter directed to suggest the place of erection of the pillars and prepare an estimate.

9. The resolution of controversy before the Court today required an undertaking of the several orders passed by the Trial Court thereafter. Those orders concern both, the construction on the ground floor of the suit property and execution of the sale deed. The following orders are particularly relevant and reproduced below:

Order dated 11.09.2018

“The ld. proxy counsel for the defendant has filed the inspection report of the architect. The architect has given the lay out plan for construction of the four pillars in the suit property as well as the cost of construction of the said pillars. The Ld. counsel for the plaintiff has no objection regarding the said report. However, he has submitted that the defendant will construct the pillars one by one and starting from the back of the suit property. The Ld. proxy on instructions from the defendant as well as his son submits that the defendant requires two months time to construct the said pillars on the suit property.

It is made clear that the plaintiff shall remain in possession of the suit property and the plaintiff shall allow the access to the workmen/contractor/architect as well as the defendant in the suit property only for the purpose of construction of the pillars only as per the report. The defendant shall ensure to clean the litter and garbage of the construction materials after completion of each pillar. The defendant shall construct the pillars starting from the back and construct the pillars one by

one. Needless to say that the defendant shall bear the entire expenses of the construction of the pillars.

Put up for further proceedings/ or final arguments on 13/11/2018”

Order dated 04.10.2018

“The Ld. counsel for the plaintiff has filed an application for early hearing of the matter. The Ld. counsel for the defendant has filed an application u/s 151 CPC for appropriate directions to the plaintiff not to create any obstruction in performance of the terms and conditions of the agreement dated 07/01/2016.

Since both the parties have appeared before this court, therefore, the application for early hearing is disposed off and both the parties are heard on the matter as well as on the application u/s 151 CPC filed by the defendant.

Both the parties submit that the four pillars are already constructed in the suit shop in view of the orders dated 11/09/2018. The ld. counsel for the defendant submits that the plaintiff is constructing the room over the said shop but the plaintiff is obstructing the same. It is made clear that the defendant will not carry out illegal construction over the said shop. However, in case the MCD permits to construct the room over the above shop the plaintiff shall not create any hindrance or obstructions for the construction of the same. The plaintiff submits that as per the agreement he is ready to deposit the admitted balance sum of Rs.5,00,000/- in the court. The plaintiff will deposit the said amount within the period of one week from today. The ld. counsel for the defendant on instructions submits that the defendant will execute the sale deed in favour of the plaintiff in terms of the agreement dated 07/01/2016 on or before 07/01/2019. The applications are disposed of in the aforesaid terms.

Put up for further proceedings on 15/01/2018. (wrongly mentioned as the date of hearing was 15/01/2019). The date already fixed i.e. 13/11/2018 is hereby canceled.

Copy of the order be given dasti to both the parties.”

Order dated 11.10.2018

“The plaintiff has filed an application u/s 151 CPC for taking on record the draft for a sum of Rs.5,00,000/- on record in terms of order dated 4/10/2018 passed by this court.

The draft no.778943 dated 8/10/2018 for a sum of Rs.5,00,000/- drawn on Union Bank of India, Asaf Ali Road, New Delhi in favour of this court is taken on record. The Nazir/Ahlmad is directed to get it encash the said demand draft and the amount be deposited in the FDR. The FDR will be released to the defendant only after the execution of the sale deed in terms of order dated 04/10/2018. The application filed by the plaintiff is disposed off in the aforesaid terms.

The intimation regarding this order be issued to the Ld. counsel for the defendant.

Put up on the date already fixed i.e. 15/01/2019.”

Order dated 15.01.2019

“The defendant has filed an application u/s 151 CPC. Along with the said application the defendant has also placed on record the draft sale deed. The ld.counsel for the plaintiff submits that the plaintiff has no objection with respect to the said draft sale deed to be executed by the defendant in favour of the plaintiff. The ld. counsel for the defendant has pointed out that there is error in the property description in E-stamp papers. The ld. counsel

for the defendant submits that prior to the property number the shop is not written as the present case has been filed by the plaintiff in respect of shop no. 698.

The present case has been filed by the plaintiff in respect of shop no. 698, Haveli Azam Khan, Bazar Chitli Qabar, Jama Masjid, Delhi. The factum of said property description is not disputed in the written statement. The plaintiff submitted that the shop no. 698 is the single property and there is no other property with the said number. The property number is rightly described in the E-stamp which was purchased by plaintiff. The draft sale deed correctly described the premises number and the location. The sale deed will also annexed by the site plan of the property. There is no ambiguity as far as the description of the property in the E-stamp paper. The application u/s 151 CPC filed by the defendant on 04/01/2019 is disposed off in the aforesaid terms. The final sale deed in terms of the draft sale deed has been handed over to the ld. counsel for the defendant. The ld. counsel for the defendant seeks time to go through the same. Heard. Request is allowed.

Put up for further proceedings on 18/01/2019. ”

Order dated 19.01.2019

“The ld. counsel for the defendant submits that in a draft sale deed, which was filed by the plaintiff on 18/01/2019, there is one typographical error in para no.1 and in the said paragraph instead of recording the consideration of Rs.11,50,000/-, it is recorded as Rs.1,50,000/-. The ld. Counsel for the plaintiff submits that the plaintiff will make the necessary corrections. The parties have agreed to execute the said sale deed on 24/01/2019. The defendant is directed to execute the sale deed on said date and visit the concerned Sub-Registrar office on 24/01/2019 at 11:00 AM and shall remain present till 1:00 PM for the purpose of execution of the

sale deed in favour of the plaintiff. Vide order dated 04/10/2018, this court has observed that in case MCD permits the defendant to construct the room over the shop, the plaintiff will not create any hindrance or obstruction. By this order it is made clear that the defendant is permitted to carry out the construction as per the permission granted by the MCD and the plaintiff will not create any hindrance or obstruction. The para no.7 of the draft sale deed filed on 18/01/2019 will not affect this order as well as order dated 04/10/2018.

Put up for further proceedings on 30/01/2019.”

Order dated 30.01.2019

“The ld. counsel for the defendant submits that the defendant could not reach the Sub-Registrar Office on the desire date for execution of the sale deed on the ground that he was not well. The Ld. counsel for the defendant further submits that defendant will remain present on 04.02.2019 before the Sub-Registrar Office for execution of the sale deed in terms of order dated 19.01.2019. The defendant is directed to remain present on the said date i.e. 04.02.2019 before the concerned Sub-Registrar, Asaf Ali Road, New Delhi from 11:00 am to 01:00 PM for the purpose of execution of the sale deed. Rest of the applications filed by the parties shall be considered later on.

Put up for further proceedings on 05/02/2019.

Copy of the order be given dasti to both the parties.”

Order dated 05.02.2019

“The ld. counsel for the defendant seeks further time on the ground that the defendant was not well, therefore, he could not reach on 04/02/2019 before the Sub-Registrar office for execution of the sale deed in

terms of last order r/w order dated 19/01/2019. The ld. counsel for the defendant submits that the defendant will positively reach the Sub-Registrar office on 11/02/2019 to execute the sale deed in terms of last order r/w order dated 19/01/2019.

The defendant is directed to remain present on 11/02/2019 before the concerned Sub-Registrar, Asaf Ali Road, New Delhi from 11:00 AM to 1:00 PM for the execution of the sale deed in terms of last order r/w order 19/01/2019. Rest of the applications shall be considered later on.

*Put up for further proceedings on **12/02/2019**.*

Copy of the order to be given dasti to both the parties.”

Order dated 12.02.2019

“The plaintiff submits that the defendant has not executed the sale deed in terms of the previous order. None is present on behalf of the defendant.

*Put up for further proceedings on **23/02/2019**.”*

Order dated 23.02.2019

“On instructions from the son of the defendant, the ld. proxy counsel for the defendant seeks further time to execute the sale deed. The perusal of the record reveals that the defendant has sought time to execute the sale deed on 19/01/2019, 30/01/2019 and 5/02/2019. The ld. proxy counsel for the defendant on instructions submits that the defendant will positively reach the Sub-Registrar office on 27/02/2019 to execute the sale deed in terms of order dated 19/01/2019, 30/01/2019 and 05/02/2019.

The defendant is directed to remain present on 27/02/2019 before the concerned Sub-Registrar, Asaf Ali

Road, New Delhi from 11:00 AM to 1:00 PM for the execution of the sale deed in terms of order dated 19/01/2019 r/w order dated 30/1/2019 and 05/02/2019. Rest of the applications shall be considered later on.

It is made clear that in case the defendant will not appear on the said date for execution of the sale deed, then the defendant will be burdened with cost of Rs.50,000/- which shall be deducted from the amount of consideration as deposited by the plaintiff before this Court.

Put up for further proceedings on **02/03/2019.**

Copy of the order be given dasti to both the parties.”

[Emphasis supplied in all orders]

10. It is after the passing of the aforesaid orders that the Trial Court has passed the impugned order dated 07.03.2019. The Trial Court has appointed a Local Commissioner to act on behalf of the defendant and execute the sale deed in respect of the suit property. After extracting the previous orders of the Court, the following reasons have been recorded:

“The perusal of the aforesaid orders clearly reveals that the defendant is adamant not to execute the Sale Deed in spite of the requests made by the defendant himself to execute the Sale Deed on repeated dates. This Court was even constrained to pass the order dated 23/02/2019, whereby it was observed that in case defendant will not execute the Sale Deed on 27/02/2019, then, the defendant will be burdened with the cost of Rs.50,000/-, which shall be deducted from the amount of consideration, as deposited by the plaintiff.

The perusal of the aforesaid orders clearly reveals that the four pillars were already erected and the defendant has not complied with his own commitments to execute the Sale Deed in spite of the repeated orders. The draft Sale Deed is already approved by the defendant vide order dated 19/01/2019, except the typographical error, regarding the consideration amount, which was mentioned as Rs.1,50,000/-, instead of Rs.11,50,000/-, in para no.1 of the draft Sale Deed. The said error is also reflected in the Order dated 19/01/2019, which is also reproduced hereinabove. This Court is left with no other option but to appoint a Local Commissioner for completion of the transaction i.e. execution of the Sale Deed, as approved by the defendant, at the cost and expense of the defendant.

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xxxx”

[Emphasis supplied]

Submissions

11. Learned counsel for the petitioner submitted that the impugned order is tantamount to a decree being awarded in the suit and executed at an interlocutory stage. He refers to the stipulation in clause 1 of the agreement that the defendant was entitled to raise four pillars from inside the suit premises “to raise construction above it”. He further submitted that the plaintiff’s failure to abide by the stipulation is evident from the fact that subsequent to execution of the sale deed in terms of the impugned order, the plaintiff has filed another suit seeking an injunction against the construction in question.

12. Learned counsel for the respondent submitted that the impugned order was justified in the context of the statements made by the defendant on several occasions to the effect that he was willing to

execute the sale deed. Learned counsel pointed out that the Trial Court had in fact fixed dates for execution of the sale deed but the defendant had failed to appear. It has been submitted that the execution of the sale deed has been directed on the admission of the defendant and no decree was required to be passed. It has further been submitted that even after the impugned order was passed, the defendant filed an application on 18.04.2019 in which it was contended that he is ready and willing to execute the sale deed. The only issue on which the dispute survives is as to the defendant's right to raise a construction above the suit property for which it has made an application before the Trial Court.

Analysis

13. Having heard learned counsel for the parties, I am of the view that the directions contained in the impugned order were premature. A suit for specific performance is an equitable relief, and the Court is vested with discretion in this regard. The Specific Relief Act, 1963 provides for several factors which are required to be taken into consideration prior to grant of a decree of specific performance. The Supreme Court in *Laxman Tatyaba Kankate & Anr vs. Taramati Harishchandra Dhatrak* (2010) 7 SCC 717, relied on its judgment in *Bal Krishna & Anr. vs. Bhagwan Das (Dead) by LRs & Ors.* (2008) 12 SCC 145 and observed, *inter alia*, as follows: -

“19. It will also be useful to refer to the provisions of Section 20 of the Act which vests the court with a wide discretion either to decree the suit for specific performance or to decline the same. Reference in this regard can also be made to Bal Krishna v. Bhagwan

Das [(2008) 12 SCC 145] , where this Court held as under: (SCC pp. 152-53, paras 13-14)

“13. ...The compliance with the requirement of Section 16(c) is mandatory and in the absence of proof of the same that the plaintiff has been ready and willing to perform his part of the contract suit cannot succeed. The first requirement is that he must aver in plaint and thereafter prove those averments made in the plaint. The plaintiff's readiness and willingness must be in accordance with the terms of the agreement. The readiness and willingness of the plaintiff to perform the essential part of the contract would be required to be demonstrated by him from the institution of the suit till it is culminated into decree of the court.

14. It is also settled by various decisions of this Court that by virtue of Section 20 of the Act, the relief for specific performance lies in the discretion of the court and the court is not bound to grant such relief merely because it is lawful to do so. The exercise of the discretion to order specific performance would require the court to satisfy itself that the circumstances are such that it is equitable to grant decree for specific performance of the contract. While exercising the discretion, the court would take into consideration the circumstances of the case, the conduct of parties, and their respective interests under the contract. No specific performance of a contract, though it is not vitiated by fraud or misrepresentation, can be granted if it would give an unfair advantage to the plaintiff and where the performance of the contract would involve some hardship on the defendant, which he did not foresee. In other words, the court's discretion to grant specific performance is not exercised if the contract is not equal and fair, although the contract is not void.”

20. Similar view was taken by this Court in Mohammadia Coop. Building Society Ltd. v. Lakshmi Srinivasa Coop. Building Society Ltd. [(2008) 7 SCC 310] where the Court reiterated the principle that jurisdiction of the court to grant specific performance is discretionary and the role of the plaintiff is one of the most important factor to be taken into consideration.”

14. The repeated statements of the defendant that it would execute the sale deed were certainly relevant but on a holistic reading of the orders of the Trial Court, it appears that the defendant was equally consistent in submitting that he ought to be permitted to construct above the suit premises. This is evident *inter alia* from the orders dated 11.09.2018 & 04.10.2018 mentioned above. In the order dated 04.10.2018, it has been recorded that in case the MCD permits construction above the suit premises, the plaintiff shall not create any hindrance or obstruction for the same. This is reiterated in the order dated 19.01.2019. The effect of the order dated 23.02.2019 which stipulated the consequences of its non-compliance in terms of costs, will also have to be seen.

15. In these circumstances, it was required of the Trial Court to consider the cases of the respective parties and come to a conclusion regarding the plaintiff's entitlement to the decree sought. It goes without saying that while examining this question, the Trial Court would also consider the statements made by the defendant through counsel and on affidavit. However, the appointment of a Local Commissioner and consequent execution of the sale deed at this stage, without due consideration of the required factors, cannot be sustained.

16. The impugned order also falls foul of the principle that final relief cannot be granted by way of interim orders. Learned counsel for the plaintiff was unable to show that anything survived in the suit, except for the defendant's application with regard to construction. It is settled law that interim orders of such nature are passed generally to preserve or restore the status quo in controversy. The Supreme Court in *Samir Narain Bhojwani vs. Aurora Properties & Investments* (2018) SCC OnLine 1048: 2018 (10) SCALE 33 [Civil Appeal No. 7079/2018, decided on 21.08.2018] relied on its earlier judgment in *Dorab Cawasji Warden vs. Coomi Sorab Warden & Ors* (1990) 2 SCC 117 and observed, *inter alia*, as follows: -

“25. That apart, the learned Single Judge as well as the Division Bench have committed fundamental error in applying the principle of moulding of relief which could at best be resorted to at the time of consideration of final relief in the main suit and not at an interlocutory stage. The nature of order passed against the appellant is undeniably a mandatory order at an interlocutory stage. There is marked distinction between moulding of relief and granting mandatory relief at an interlocutory stage. As regards the latter, that can be granted only to restore the status quo and not to establish a new set of things differing from the state which existed at the date when the suit was instituted. This Court in Dorab Cawasji Warden v. Coomi Sorab Warden,² has had occasion to consider the circumstances warranting grant of interlocutory mandatory injunction. In paragraphs 16 & 17, after analysing the legal precedents on the point as noticed in paragraphs 11-15, the Court went on to observe as follows:

“16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve

or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines. Generally stated these guidelines are:

(1) The plaintiff has a strong case for trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.

(2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.

(3) The balance of convenience is in favour of the one seeking such relief.

17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion.”

[emphasis supplied]

26. The Court, amongst others, rested its exposition on the dictum in Halsbury's Laws of England, 4th edition, Volume 24, paragraph 948, which reads thus:

“A mandatory injunction can be granted on an interlocutory application as well as at the hearing, but, in the absence of special circumstances, it will not normally be granted. However, if the case is clear and one which the court thinks ought to be decided at once, or if the act done is a simple and summary one which can be easily remedied, or if the defendant attempts to steal a march on the plaintiff, such as where, on receipt of notice that an injunction is about to be applied for, the defendant hurries on the work in respect of which complaint is made so that when he receives notice of an interim injunction it is completed, a mandatory injunction will be granted on an interlocutory application.”

17. As the impugned order grants final relief to the plaintiff at an interlocutory stage – and, in fact, alters the status quo existing – it has to be held to be in excess of the jurisdiction vested in the Trial Court at this stage of proceedings.

Conclusion

18. For the reasons aforesaid, the petition must succeed and the impugned order is set aside. However, it is undisputed that the sale deed has in fact been executed by the Local Commissioner in the meantime. In these circumstances, instead of giving a direction for cancellation of the sale deed, the interests of both the parties would be protected by directing the plaintiff to deposit the sale deed in the custody of the Trial Court, subject to the result of the suit. The orders of the Trial Court make it clear that the suit is at the stage of final

arguments. The parties are directed to appear before the Trial Court on 22.08.2019, when the Trial Court may proceed to hear final arguments or fix a date for hearing of the same. Keeping in mind the peculiar circumstances of the case, the Trial Court shall conclude the hearing and dispose of the suit in accordance with law, within a period of three months thereafter. In the event, the plaintiff succeeds in its claim for specific performance, the title deeds executed pursuant to the impugned order may be returned to him. However, in the event the Trial Court does not award a decree of specific performance, it will pass consequential orders for cancellation of the sale deed executed by the Local Commissioner.

19. It is made clear that the observations contained in this order are for the purposes of disposal of this petition alone, and shall not prejudice the contentions of the parties before the Trial Court.

20. The petition is disposed of in the terms aforesaid. There will be no orders as to costs.

PRATEEK JALAN, J.

JULY 25, 2019

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