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

+ RFA 485/2018

VEENA RANI

..... Appellant

Through: Mr. G. S. Randhawa and Mr. R. K. Bali, Advocates.

versus

JITENDER SINGH BHATIA & ANR

..... Respondents

Through: Mr. Nitin Garg and Ms. Neha Garg, Advocates.

ASI Daulat from Police Station-Mangolpuri.

ASI Kuldeep Singh from Police Station-Paschim Vihar.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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16.10.2019

CM APPL Nos. 41657/2019 & 42775/2019

On 18th September, 2019 on CM APPL. 41657/2019, the following order was passed:

“CM APPL No. 41657/2019

This application is for modification of the order dated 20.08.2019 passed in CM. No.36106/2019.

The respondents have filed a suit for possession, permanent injunction and mesne profit in respect of Flat No. 20-C, Block A-3, Second Floor, Paschim Vihar, New Delhi-110063 against the appellant herein which was decreed on 24.04.2018, by the learned Additional District Judge-06, West, Tis-Hazari Court, Delhi. The appellant then filed this appeal challenging the said judgment. However the possession is now handed over by the respondent to the Court. The keys of the premises are lying with the executing Court and the question is to whom such keys be handed over.

It is submitted by the learned counsel for the applicant that Mr.Jatinder Singh Bhatia is authorised on behalf of the LRs of

Mr.Harmohinder Singh Bhatia to accept the keys and even otherwise

Mr.Harmohinder Singh Bhatia has already executed a registered gift deed dated 03.01.2014 in favour of Mr.Jatinder Singh Bhatia/the applicant, as such the keys of the subject flat be handed over to the applicant.

Considering the facts, the keys be handed over to the applicant herein by the learned executing Court.

The application stands disposed of in terms of above.

Order dasti.”

Immediately thereafter an application viz. CM APPL. 42775/2019 was filed by the appellant herein on which the following order was passed:

“RFA 485/2018 & CM APPL.No.42775/2019

This application is for recalling of the order dated 18.09.2019 on the ground such order was obtained by the decree holder by making a false statement that the decree holder is authorised on behalf of the LRs of deceased Dr.Harmohinder Singh Bhatia to accept the keys of the subject property and had filed a forged and fabricated gift deed in this regard.

In the circumstances issue notice to the non-applicants through all modes returnable on 16.10.2019 and in the meanwhile the order dated 18.09.2019 shall remain stayed till the next date of hearing.

Copy of this order be given dasti under signature of the Court Master.”

Learned counsel for the appellant submits that keys of the subject property have since been deposited by the appellant before the executing court. The question is to whom such keys be returned. It is alleged by learned counsel for the appellant though suit for possession was filed by two brothers Mr.Harmohinder Singh Bhatia and Mr.Jatinder Singh Bhatia, being co-owners of the subject property, but it was signed only by Jatinder Singh *per* Power of Attorney of Mr.Harmohinder Singh Bhatia. It is further alleged on the basis of such alleged Power of Attorney of Sh.Harmohinder, a

Gift Deed was got executed by Mr.Jatinder Singh Bhatia in his favour of the share of Harmohinder in the subject property. The appellant challenges the Gift Deed as also Power of Attorney, stating *inter-alia*, the said Gift Deed as also POA is false and forged document.

Admittedly, this suit for possession was filed by two co-owners, namely, Mr.Jatinder Singh Bhatia and Mr. Harmohinder Singh Bhatia. Till date the legal heirs of Mr.Harmohinder Singh Bhatia have not challenged such Power of Attorney(s) nor the Gift Deed. The keys of the subject property have since been deposited before the learned executing court by the appellant only after disposal of this appeal. The appellant thus has no locus standi to object to the handing over of keys to Mr.Jatinder Singh Bhatia on an alleged ground of Gift Deed/POA being forged. If any action qua such forgery needs to be taken it is for the legal heirs of Mr.Harmohinder Singh Bhatia and not for this appellant.

Admittedly Mr. Jatinder Singh Bhatia is a co-owner, hence, in any case had a locus standi, to file suit for possession *alone* against the appellant herein, thus no fault can be seen if keys are ordered to be returned to any one of the co-owners of subject property, including Jatinder Singh.

In the circumstances, the order dated 18.09.2019 stands restored. The keys be handed over by the executing court to Mr.Jatinder Singh Bhatia/the applicant or to any one of his duly authorised representative.

Both the applications stand disposed of.

YOGESH KHANNA, J.

OCTOBER 16, 2019

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