

CR-535-2020 (O&M)

Date of decision: 27.01.2020

Hans U. Nagar

.....Petitioner

versus

M/s Diverse Buildcon Pvt. Ltd.

.....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Harkesh Manuja, Advocate
for the revisionist/petitioner.**FATEH DEEP SINGH, J.**

Mr. Vikas Bahl, Senior Advocate with Mr. Nikhil Sabharwal, Advocate puts in appearance on their own on behalf of the caveator/respondent. In light of the urgency shown and the concurrence of the two sides, let the arguments be heard after sometime.

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The present respondent/plaintiff-M/s Diverse Buildcon Pvt. Ltd. (in short referred to as 'Company'), in the main suit, instituted against the present petitioner, then defendant, a suit for declaration with consequential relief of permanent injunction.

The brief facts that led to the instant dispute are that present petitioner-Hans U. Nagar and his brother, who is not a party to the present suit, John Nagar, stated to be a foreign national,

happen to be sons of deceased, Ida Nagar and Brig. Hem Chander Nagar. The claim of the plaintiff/Company is that John Nagar, through registered sale dated 04.10.2017, sold the property subject matter of the suit to them for a valuable consideration which was accompanied by delivery of possession. The land too, stood demarcated on 13.01.2018. The defendant is alleged to have tried to illegally and forcibly trespass upon the said land and take its illegal possession with the help of goons. Threatened over the alleged illegal acts of the defendant, the complainant filed the suit. The defendant took the stand that he was in occupation of the land, in question, on the basis of registered lease deeds/*pattanamas* dated 05.08.1994 and 21.09.1994 for a sum of Rs.1500/- and, therefore, has tried to lay his claim over the said land.

In the suit, the Court of the learned Civil Judge (Junior Division), Gurugram, in the application under Order 39 Rule 1 and 2 CPC, passed an order on *status quo* on 31.08.2019. The defendant, now revisionist, filed a civil miscellaneous appeal against the said order and the Court of the learned Additional District Judge, Gurugram, through impugned judgment/order dated 13.01.2020, though dismissing the appeal but modified the orders holding that the defendant be restrained from interfering in the peaceful possession of the plaintiff over the suit land till the decision of the suit. Aggrieved over these findings, the revisionist has knocked at the doors of this Court.

Appreciating the submissions of Mr. Harkesh Manuja, Advocate for the revisionist/petitioner and Mr. Vikas Bahl, Senior Advocate assisted by Mr. Nikhil Sabharwal, Advocate for the respondents, the claim of the revisionist that the mother, deceased, Ida Nagar was the original owner of the suit property, has not been satisfactorily brought on the records. Though, there is a claim of the revisionist/defendant that John Nagar, brother, from whom, the plaintiff now respondent, derive their title, as on 12.04.2012, through a relinquishment deed, relinquished all these rights in the suit property, which, as per the claim of the respondent's side, pertains to property, situated in Faridabad and Delhi, while, the present properties are situated in Mehrauli, in a litigation before the Delhi High Court. The same has not been established by any means, though, it is much in reflection that the siblings and other heirs, were at loggerheads over the properties of their parents and that too, there is claim and counter-claim by way of respective Wills to the estate, left behind by their parents. To the specific query of the Court, learned counsel for the revisionist could not bring forth anything tangible to bear out the element of relinquishment by John Nagar of his rights in the suit property, rather, what one can perceive and is sought to be argued with much vehemence, on behalf of learned counsel for the respondent that land depicted as 19//23/2(5-2), 17//16/1(0-1), 18//5/1(0-6), 18//2/1/3(2-4), 14//19/2(5-17), 14//23(7-16) and 14//16/2(5-12) is nowhere, reflected in any of the two lease deeds, claimed by the

revisionist, whereas, land bearing Nos. 18//4/1(0-9) and 14//25/1(5-12), there is no claim that lease deed in respect of this land was executed in favour of the revisionist and only land bearing Nos. 14//24/2(7-11) and 14//22/3(5-0) are shown to be depicted in lease deed dated 05.08.1994. This argument of Mr. Vikas Bahl, Senior Advocate for the respondent could not be successfully thwarted by Mr. Harkesh Manuja, learned counsel for the revisionist. Moreover, admittedly, there is claim over ***Sanad Taksim*** dated 12.09.2007 between the family members and the revisionist has tried to hide the factum of some family settlements that was brought about much prior to all these disputed documents on 15.09.2011, which is a matter of much relevance.

Learned senior counsel for the respondent has sought to take refuge to the claim of the revisionist arguing that both the brothers have devised a way to rob third party of their money, by virtue of which, they have tried to hide their feud and the recitals, detailed in the sale deed, are reflective of the same. It is there in the revenue records that upon demarcation by the revenue authorities headed by the Assistant Collector, Grade-I, the plaintiff was handed over the possession after due demarcation also shows that from the day of execution of the sale deeds i.e. 04.10.2017 till demarcation on 13.01.2018, though, there was no claim led before the authorities by the revisionist and which does not stands challenged by any means nor is reflected on the records. The claim of the respondent's side

that the lease amount of Rs.500 per acre for 90 years reflective that it was nothing but a camouflage by the brothers. However, this Court does not feels it appropriate to comment on the same, at this stage, which is subject to the evidence of the parties at the trial of the suit. A question comes to the Court, if the lease deeds were genuinely and bonafidely executed, then possession would certainly had been handed over to the revisionist and there was, thus, no question of demarcation and handing over a possession by the revenue authorities to the plaintiff/Company and which is otherwise, in the present case, rather, nullifies the claim of the revisionist. The parties, admittedly, are litigating by innumerable cases over the properties of their predecessors, in interest. The counsel for the revisionist has sought to place reliance on a division bench judgment of this Court passed in “Umrao vs. Shrimati Nihali and others” (P&H) (DB), 1984 PLJ 511, to substantiate his submissions that the lease deeds in view of such a situation and inadequacy of the lease amount, is nothing but a sham and bogus affair and which precisely was one of the points which has weighed in the minds of the Court below.

In light of this situation, since, it is a pure decision on an application for injunction at the preliminary stage, it has been rightly deduced by the impugned findings that the very element of *prima facie* case, irreparable loss and balance of convenience, certainly tilts in favour of the plaintiff.

There does not appears to be any apparent illegality or

perversity in the findings, under challenge, which needs to be upheld.
The revision, being hopelessly without merits, stands dismissed.

(FATEH DEEP SINGH)
JUDGE

27.01.2020
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No