

\$~52

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

% Judgment delivered on: 22.01.2020

+ C.R.P. 12/2020

MADAN MOHAN SHARMA

..... Petitioner

versus

KISHAN GUPTA & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr.Neil Wadia, Advocate.

For the Respondent: Mr.Darshan Paliwal, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL. 2529/2020 (Exemption)

Allowed, subject to all just exceptions.

CAV 54/2020

Since learned counsel for the respondent/caveator has entered appearance, the caveat is discharged.

C.R.P. 12/2020

1. Petitioner impugns order dated 13.12.2019 whereby the objections of the petitioner to the execution petition filed by the

respondent has been dismissed.

2. Petitioner/objector had filed the subject objection petition contending that he is the owner of the property bearing DDA flat No.A-73A, Ground Floor, Raghbir Nagar, New Delhi and behind his back a decree of possession has been obtained by respondent No.1 against respondent No.2.

3. The Executing Court, while dismissing the objections has noticed that the petitioner/objector had not produced any original document in support of his title, despite several opportunities having been granted to him. He had only produced photocopies of General Power of Attorney executed by the original allottee Sh. Yad Ram in favour of Sh.Kamlesh Narain Sharma and of the Power of Attorney executed by Sh. Kamlesh Narain Sharma in his favour.

4. The executing Court has observed that the General Power of Attorney alleged to have been executed by the original allottee Sh. Yad Ram in favour of Sh.Kamlesh Narain Sharma and the General Power of Attorney executed by Sh.Kamlesh in favour of the petitioner were all photocopies and unregistered documents. The objector had even failed to produce any original document or chain of documents in Court.

5. The Executing Court has further noticed the contention of the petitioner was that he had been regularly visiting the property but was

unaware of the subject suit.

6. The Executing Court has noticed that litigation between respondent No.1 and respondent No.2 carried on for a period of over nine years and the disputes had even travelled upto the Supreme Court and the decree of possession in favour of respondent No.1 had been upheld even upto the Supreme Court. It is only when the judgment debtor lost the case in the Supreme Court and the decree holder applied for execution, that the petitioner/Objector came forward and filed the objection petition.

7. No explanation has been rendered before this Court also as to how the objector contends that he was not aware of the litigation when he claims that he was in touch with the judgment debtor and as per his allegation regularly visiting the property.

8. Even before this Court none of the original documents could be produced by the petitioner/objector. A copy of the FIR has been placed which is lodged on 11.05.2019 contending that all documents in respect of the subject property have been lost. The FIR does not inspire any confidence, in view of its timing.

9. Learned counsel appearing for the respondent caveator has pointed out that all original chain of documents had been produced by him before the Trial Court and the Executing Court and were duly exhibited before the Trial Court.

10. I find no infirmity in the view taken by the Executing Court that the objections filed by the petitioner are not sustainable in the absence of original documents of title having been produced by the petitioner, more so in view of the fact that original title documents along with the purchase documents from the original allottee have been produced by the respondent No.1/Decree holder.

11. I find no infirmity in the view taken by the Executing Court and accordingly find no merit in the petition.

12. The petition is accordingly dismissed.

13. Order *dasti* under signatures of the Court Master.

JANUARY 22, 2020

rk

SANJEEV SACHDEVA, J.