



\$~1

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

% Judgment delivered on: 25th February, 2022

+ **FAO 35/2022 & CM APPL. 8217/2022**

RAJIV GAMBHIR

..... Appellant

versus

GULJEET SINGH AND OTHERS

..... Respondent

Advocates who appeared in this case:

For the Appellant : Mr. Apurv, Advocate

For the Respondents : Mr. Shym Babu, Advocate for R-1

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

1. The hearing was conducted through video conferencing.

2. Appellant impugns order dated 27.10.2021 to the limited extent that a restraint has been put on the appellant from obstructing the ingress and egress at the ground floor of the suit property and he has been directed to remove any parked vehicle which has been parked at the parking area of the ground floor of the suit property and further not to park any vehicle in the said area or make any encroachment in the said area during pendency of the suit.

FAO 35/2022

Page 1 of 4



3. Plaintiff has filed the subject suit for permanent and mandatory injunction contending that plaintiff is a senior citizen and co-owner of sixth-eighth share in the property and is in possession of the ground floor and the other portion is owned by respondent no. 2 Nirmal Jeet Singh.

4. It is contended in the plaint that appellant is a tenant in the subject property and is in possession of part of the first floor and the remaining portion in possession of Mr. Nirmal Jeet Singh.

5. It is alleged in the suit that the defendants i.e. appellant and respondent no. 2 and 3 are seeking to carry out structural changes to the building. Further it is contended that the appellant has illegally and unauthorizedly encroached upon the parking area inter alia by parking his vehicle which impairs the ingress and egress of respondent no. 1 (plaintiff).

6. In the written statement, appellant had contended that there is a collaboration agreement whereby appellant was to construct the property and in lieu thereof become the owner of part of the portion of the property.

7. With regard to the ingress and egress, it is contended in the written statement that appellant is in possession of part of the first floor. It is contended that appellant had never caused any obstacle in



the ingress and egress of the property of respondent no. 1.

8. The trial court in the impugned order has referred to the photographs filed by respondent no. 1 (plaintiff in the suit) which shows that the vehicle of the appellant is parked in the open space at the ground floor of the property.

9. The trial court has come to a prima facie conclusion that the parking of the vehicle infringes upon the legal right of the plaintiff to enjoy the parking space.

10. The photographs which were placed before the trial court in the suit have also been filed by learned counsel for the appellant in these proceedings. Perusal of the photographs shows that the subject property is an old constructed structure. Photographs also revealed that on the front side of the property there is a staircase leading to the first floor and a small courtyard.

11. From the photographs it is seen that the vehicle (an SUV - Ford Endeavor) which is parked on the ground floor is covering more than half of the courtyard.

12. It is clear from the photographs that in case the vehicle is permitted to be parked in the front courtyard, the ingress and egress of the respondent no. 1 is going to be greatly hampered.



13. The courtyard is right in front of the entrance to the ground floor, which is admittedly in possession of the Plaintiff/Respondent no. 1. Further, nothing has been brought on record by the appellant to show that he has any right to the ground floor courtyard except for ingress or egress to his first floor.

14. In view of the above, I find no error in the prima facie view taken by the trial court that parking of the vehicle in the open space on the ground floor infringes the legal right of respondent no. 1 to enjoy the said space.

15. I find no infirmity in the impugned order. The appeal is accordingly dismissed.

16. It is clarified that nothing stated herein shall amount to an expression of opinion on the merits of the case of either party and the trial court would be at liberty free to decide the suit in accordance with the evidence placed before it without being influenced by anything stated herein.

17. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J

FEBRUARY 25, 2022/‘rs’

FAO 35/2022

Page 4 of 4