



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

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Reserved on: 1st February, 2024

Pronounced on: 7th May, 2024

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CS(OS) 1210/2013 & I.A. 8863/2022

JANAK PROPERTIES PVT LTD & ANR

..... Plaintiffs

Through: Mr. Ashish Kapur and Mr. Anmol Kapur,
Advocates.

versus

AMARJEET SINGH

..... Defendant

Through: Mr. Sanjeev Kumar Dubey, Sr. Advocate
with Mr. Anurag Ojha, Ms. Pushpa Arya,
Mr. Suyash Gupta, Advocates with Mr.
D.N. Chaturvedi, Mr. Deepak Somani, Mr.
Vipul Kumar, Mr. Karan Aggarwal,
Advocates for Intervener. Mr. Anil Kher, Sr.
Advocate with Ms. Chakshu Thakral,
Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

I.A.7945/2023 in CS(OS) 1210/2013 (under Order XXII Rule 2 &3 read with Section 151 CPC filed by the applicant for seeking substitution of legal heir in I.A.4391/2021 under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure)

1. **Facts in brief** are that I.A.4391/2021 under *Order 1 Rule 10 read with Section 151* of the Code of Civil Procedure (*hereinafter referred to as "CPC"*), 1908 (*hereinafter referred to as 'CPC'*), was filed by Sh. Rajesh Vohra, as Power of Attorney Holder and son of Smt. Urmila Vohra.



2. Ms. Urmila Vohra, plaintiff in CS(OS) 325/2017, had entered into an Agreement to Sell dated 24.01.2013 and subsequent addendum dated 19.07.2014, with the plaintiff No. 1 Company. Suit bearing CS(OS) 1210/2013 was filed by the plaintiff No. 1 Company and plaintiff No. 2, Mr. Anil Malhotra (Director of plaintiff No. 1), against the defendant, Mr. Amarjeet Singh (Director of plaintiff No. 1), for Recovery of Possession of the suit property as he was in possession of the Suit Property.
3. Apprehending the irreparable damage, Smt. Urmila Vohra also filed Civil Suit bearing CS(OS) 325/2017 for Specific Performance, titled as '*Urmila Vohra and Anr. vs. M/S Janak Properties Pvt. Ltd. & Ors.*', which is pending adjudication. The Suit had to be filed on behalf of Ms. Urmila Vohra since the plaintiff No.1 *herein* i.e. Mr. Anil Malhotra, was reluctant to execute the Sale Deed in favour of the applicant/Smt. Urmila Vohra.
4. Thereafter plaintiff No. 2 was deleted *vide* Order dated 04.12.2020 as he ceased to be the Director of the plaintiff No. 1 Company.
5. The applicant has filed an application under Order I Rule 10 CPC, to be impleaded as a party to the present suit. It is submitted in the application that the parties in the Suit, were referred for Mediation and according to the stand taken by them, it was felt by the applicant that the plaintiffs were likely to collude with the defendant in view of their shareholder relationship.
6. **Subsequently, pursuant to the Mediation Settlement dated 25.01.2021, between the plaintiff No. 1 Janak Properties Pvt Ltd and the defendant, the present Suit was decreed, in terms of the Settlement dated 15.03.2022.** *Vide* the same order, all the pending applications, which included the present application bearing I.A. No. 4391/2021 also stood disposed of.



7. Smt. Urmila Vohra had died on 25.01.2023 i.e. after the disposal of the Suit. Thereafter, the present application i.e. I.A. 7945/2023 was filed by her son, Mr. Rajesh Vohra/Power of Attorney Holder for impleadment of the legal heirs of Smt. Urmila Vohra, namely, her two daughters and himself.

8. **Submissions heard.**

9. The application under Order I Rule 10 CPC, which was filed by Smt. Urmila Vohra, was to ensure that there is no settlement between the plaintiff Company and the defendant, to her detriment. However, this was only a Suit for Possession, which got decreed on 15.03.2022 on account of the settlement *inter se* the plaintiff and the defendant.

10. Vide Order dated 15.03.2022, all the pending applications in the suit were disposed of. Once, the application bearing I.A. No. 4391/2021 under Order I Rule 10 CPC filed by Sh. Rajesh Vohra, as Power of Attorney Holder of Smt. Urmila Vohra itself got disposed of, the application ceases to exist. Therefore, the subsequent application bearing I.A. No. 7945/2023 by Legal heirs of Smt. Urmila seeking decision on this impleadment application, is not tenable as it has already been disposed of vide Order dated 15.03.2022.

11. The application is hereby dismissed.

I.A. No. 5902/2022 (under Section 151 CPC read with Order IX Rule 13 of CPC, 1908 seeking recall of Order dated 15.03.2022)

12. An application under Order IX Rule 13 read with Section 151 CPC has been filed by Jawaharlal Vohra (husband of Smt. Urmila Vohra), for setting-aside the Judgment dated 15.03.2022, *vide* which the Suit had been decreed, in terms of the Mediation Settlement dated 25.01.2021.



13. The application explains the entire backdrop in which the present Suit had been filed. According to the applicant, Smt. Urmila Vohra and her husband Jawaharlal Vohra had entered into an Agreement to Sell dated 24.01.2023 and subsequent addendum dated 19.07.2014, in relation to the Suit Property bearing No. 14A/69 WEA Karol Bagh, New Delhi-5, with the plaintiff No. 1 *herein*, M/s Janak Properties Pvt. Ltd.

14. The Suit Property was in possession of Sh. Amarjeet Singh/ defendant (Director of the plaintiff No. 1 Company) and thus, as per the Agreement between the parties, M/s Janak Properties Pvt. Ltd. filed the present Suit for Recovery of Possession from defendant. The applicant also asserted that because the plaintiffs were not forthcoming to execute the Sale Deed pursuant to the Agreement to Sell dated 24.01.2013, Smt. Urmila Vohra had filed a Civil Suit bearing CS(OS) 325/2017, for Specific Performance of Agreement to Sell dated 24.01.2013. *Vide* Order dated 19.07.2017, interim injunction was granted, which was modified *vide* Order dated 23.08.2018 and the *ex-parte* interim Order was vacated and both the parties were referred to settle their matter either by payment of the balance amount by the applicant/Smt. Urmila Vohra or by refunding of the earnest money to Smt. Urmila Vohra.

15. However, the settlement talks failed and the endeavour of the parties did not result in any fruitful end result. The applicant has further submitted that because she was apprehending that plaintiffs are in the process of alienating the subject property to Mr. Amarjeet Singh to frustrate her Suit for Specific Performance, she filed the impleadment application in the present Suit, to bring on record the complete facts. *Vide* Order dated



23.03.2021, directions were given to all the parties, to file their synopsis so as to consider the application for impleadment.

16. The applicant has further submitted that in the interim, the plaintiff Company had got de-listed. Pursuant to the Agreement between the applicant and the plaintiff No. 1 *herein*, the additional sum of Rs.7,00,000/- were paid by the applicant, for the revival of the plaintiff No. 1 Company. Despite the needful having been done, the plaintiff did not come forth to honour their part of the Agreement to Sell.

17. The applicant then noticed defendant, Mr. Amarjeet Singh, making construction on the Suit Property, which reflected that he had entered into some settlement with the plaintiff Company, in order to cause wrongful loss to the applicant. It is asserted that the settlement arrived at between the plaintiff and the defendant No. 1, behind her back, is illegal. The Legal Notice dated 19.10.2021 was issued cautioning the parties to the present Suit and asking defendant/ Mr. Amarjeet Singh, not to continue with the construction at the suit property but no reply was given to the legal Notice and the construction is being carried out in the Suit Property. The applicant left with no alternative, moved the present application before this Court.

18. It is submitted that the plaintiff apparently to defraud and prejudice the applicant's interest, firstly changed the Directors of the plaintiff No. 1 Company and erstwhile Director (Mr. Anil Malhotra), who was earlier impleaded as plaintiff No. 2 and Mr. Vinod Kapoor were substituted by Mr. Shivam Malhotra and Smt. Alka Malhotra, in the year 2020. Mr. Shivam Malhotra had taken a cheque of Rs.7,00,000/- during the Mediation proceedings. Thereafter, Mr. Amarjeet Singh again requested the parties to be sent to Mediation and behind the back of the applicant, the Settlement



Agreement dated 25.01.2021, was got executed between the plaintiff and the defendant and the Suit has been decreed. It is asserted that the Order dated 15.03.2022, decreeing the Suit is liable to be set-aside.

19. Submissions heard.

20. First and foremost, the applicant, Smt. Urmila Vohra through her son/Special Power of Attorney Holder, Mr. Rajesh Vohra, had filed an application under Order 1 Rule 10 CPC, which got disposed of/ decreed *vide* Order dated 15.03.2022. She never became a party to the present Suit and she has no *locus standi* to move the present application under Order IX Rule 13 CPC for setting aside the decree to which she was not even a party.

21. From the submissions made in the application, it is quite evident that the applicant/ Urmila Vohra had entered into an Agreement to Sell with the plaintiff *vide* Agreement to Sell dated 24.01.2013 and addendum dated 19.07.2014. It is her own submission that the defendant, Mr. Amarjeet Singh, who was also the Director of the plaintiff Company, was in possession of the Suit Property and consequently the plaintiff Company filed the present Suit for Recovery of Possession against Mr. Amarjeet Singh, in order to be able to honour the Agreement to Sell, entered into by the plaintiff with the applicant.

22. The applicant being aggrieved by the plaintiff Company not coming forth for execution of the Sale Deed, filed her own independent CS(OS) 325/ 2017 for Specific Performance for execution of the Sale Deed in her favour. While her own Suit was pending, the plaintiff and the defendant *herein* arrived at a settlement wherein the plaintiff agreed to execute the Sale Deed, in favour of the defendant in the present suit. There was no *status quo* orders prevailing in respect of the Suit Property, as per the statement of the



applicant herself. *Status quo* orders that were granted *vide* Order dated 19.07.2017 in her Suit for Specific Performance, stood vacated *vide* Order dated 23.08.2018. The plaintiffs may have executed or agreed to execute the Sale Deed in favour of the defendant, however, the only implication of this Sale Deed, would be that the defendant, Mr. Amarjeet Singh would get substituted in place of the plaintiff Company being a subsequent purchaser having stepped into the shoes of the plaintiff Company and the Agreement to Sell of applicant being prior in time to any Sale Deed executed or to be executed in favour of the defendant, the doctrine of *lis pendence* would prevail.

23. The applicant is in no manner prejudiced in her own independent Suit filed for Specific Performance. Any *inter se* settlement between the plaintiff and defendant, would not impact her own rights in her Suit.

24. She is neither a party to the present Suit nor she was ever impleaded and she has no *locus* to seek setting aside of the Judgment dated 15.03.2022 *inter se* the parties to the present Suit.

25. The application under Order 9 Rule 13 CPC filed on behalf of the applicant, is without merit and is hereby dismissed.

26. All the pending applications/interim orders made during the pendency of the present application also stand vacated/dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 07, 2024/RS