

\$~14

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

Date of Decision: 19.01.2023

+ **CS(OS) 1362/2014**

JAGDISH KAUR

..... Plaintiff

Through: Mr.Shubham Sagar, proxy
counsel.

versus

POOJA VERMA & ANOTHER

..... Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

1. The plaintiff has filed the present suit praying for the following relief:-

“a) A decree for declaration be passed in favour of the plaintiff and against the defendants declaring the registered sale deed registered with the office of the Sub Registrar vide document No.3426 in Additional Book No.1, Volume No. 4620 on pages 75 to 79 registered on 18.04.2013 as null and void document and the concerned Sub Registrar may be directed to cancel the abovesaid documents being forged and fabricated.

b) A decree for permanent injunction be also passed in favour of the plaintiff and against the defendants thereby restraining the defendants, their family members, relations, friends, agents, etc. from selling, alienating, parting with the possession or creating third party interest in the suit property i.e. entire second floor, without its roof /terrace rights,

Signature Not Verified

Digitally Signed By: SUNIL

Signing Date: 24.01.2023

19:25:54

CS(OS) 1362/2014

Page 1 of 5

alongwith common entrance, passage and staircase, fitted with separate electric and water meter connections and common sewer connection in running condition, alongwith undivided 1/4th share in stilt parking on lower ground floor, also fitted with lift facility, a part of free hold built up property bearing No.203, in Block A, area measuring 180 sq. yds. i.e. 15.50 sq. mtrs. out of Khasra No.26, also with the proportionate rights of the land under the said property, situated in the area of village Bharola colony known as Majlis Park, Block A, Delhi-110033, which is clearly shown in red colour in the site plan annexed with the plaint, in the interest of justice;

c) Cost of the suit may also be awarded in favour of the plaintiff and against the defendants.”

2. The defendant nos. 1 and 4 were proceeded *ex-parte* vide order dated 24.09.2014. By an order dated 16.03.2016, defendant no.3 was directed to be served through affixation and publication. As none appeared for defendant no.2 in spite of service, defendant no.2 was proceeded *ex-parte* vide order dated 19.08.2016. In any case, the defendant no.2 has been impleaded as an unknown person as would be evident from the Memo of Parties.

3. The order proceeding defendant nos.1 and 4 *ex-parte* was recalled by this Court vide its order dated 23.01.2017, and fresh summons in the suit were issued to the said defendants. As defendant nos.1 and 4 could not be served through ordinary process, they were directed to be served through publication vide order dated 09.05.2018. Eventually the defendants were proceeded *ex-parte* vide order dated 11.12.2018.

4. The plaintiff filed her own affidavit dated 27.02.2019 in evidence and tendered the same on 12.07.2019.

5. It is the case of the plaintiff that the plaintiff by virtue of the Sale Deed dated 12.07.2012 (Ex.PW 1/2) registered with the office of the Sub-Registrar VI-A as Document no. 8,343, in Additional Book No. 1, Volume No. 4235 on pages 65 to 74 on 12.07.2012 (**Ex. PW1/2**) became the owner of the entire second floor without its roof/terrace rights along with common entrance, passage and staircase, fitted with separate electric and water meter connections and common sewer connection in running condition, along with undivided 1/4th share in stilt parking on the lower ground floor, also fitted with lift facility, a part of freehold built up property bearing No.203, in Block A, an area measuring 180 sq. yds. i.e. 15.50 sq. mtrs, out of Khasra No.26, also with the proportionate rights of the land under the said property, situated in the area of village Bharola colony known as Majlis Park, Block A, Delhi-110033 (hereinafter referred to as the 'suit property').

6. On 29.09.2013, four persons, namely, Mr.Beant Singh, Mr.Attar Singh Yadav, Mr.Satish Kumar and Mr.Mukesh Kumar came to the suit property and asked the plaintiff to vacate the suit property as defendant no.1 had purchased the suit property from one Smt. Jagdish Kaur. However, it became apparent from a perusal of the Sale Deed produced by them, which had been registered with the office of the Sub Registrar vide document no.3426 in Additional Book No.1, Volume No. 4620 on pages 75 to 79 on 18.04.2013 (**Ex.PW1/3**) that the same had been executed by someone impersonating as the

plaintiff.

7. The plaintiff immediately lodged a complaint to the police on which FIR No. 269 dated 29.09.2013 under Section 420/467/468/471/120B of the Indian Penal Code, 1860 was registered at Police Station Adarsh Nagar (**Ex. PW1/4**).

8. The plaintiff, thereafter, tried to contact the defendant no. 1 to cancel the forged document of sale, however, found that the address mentioned in the forged document is also incorrect. The plaintiff apprehended that based on the forged document, the defendant may create a third party interest.

9. As noted hereinabove, the defendants have been proceeded *ex-parte*. There is no challenge to the statement of the plaintiff that the plaintiff did not execute the purported Sale Deed dated 18.04.2018 (EX.PW 1/3). From the perusal of the photographs of the plaintiff on EX.PW 1/2, that is, the Sale Deed in her favour, and EX.PW 1/3, which is the Sale Deed in challenge, it appears that there are two different persons, both claiming themselves to be Smt. Jagdish Kaur, the plaintiff herein. In absence of any defence being led by the defendants herein, the plaintiff has been able to make out a case for cancellation of the impugned Sale Deed that is EX.PW 1/3, which has been executed in favour of the defendant no.1.

10. Accordingly, the Sub Registrar of Documents is directed to cancel the Sale Deed registered on 18.04.2013 vide document No.3426 in Additional Book No.1, Volume No. 4620 on pages 75 to 79.

11. A decree in terms of prayer 'b' and 'c' is also passed in favour

of the plaintiff and against the defendants.

12. Let the decree sheet be drawn accordingly.

NAVIN CHAWLA, J

JANUARY 19, 2023/rv

