



2024:DHC:7929



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

Reserved on: 12.09.2024
Pronounced on: 15.10.2024

+ **CS(OS) 516/2019**

DEEPAK MEHTA & ANR

.....Plaintiffs

Through: Mr.Pradeep Kumar
Mishra, Mr.Ashish
Upadhayay, Mr.Apoorv
Sisodia and Mr.Gaurav
Raghav, Advs.

versus

NIRMAL JINDAL

.....Defendant

Through: None

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

1. The present Suit has been filed by the plaintiffs seeking a decree of declaration that the Sale Deed dated 12.03.2018 registered on 12.03.2018 *vide* Registration No. 1390 in Book No.1 Volume No. 3256 on pages 53 to 63 in respect of property bearing No. WZ-14, area measuring 250 sq. yds. out of Khasra No. 254, 276, 277 and 278 situated in Village Madipur, Indra Park, Delhi, which is presently known as WZ-14, Hari Singh Park, New Delhi-110056 (hereinafter referred to as 'Suit Property') is illegal, null and void, and that the plaintiffs are the absolute owners of the Suit Property. The plaintiffs also seek the relief of permanent injunction, restraining the defendant from executing any documents transferring or creating any kind of



2024:DHC:7929



charge, encumbrance or third-party interest in the Suit Property. The plaintiffs further seek a decree of recovery of damages of Rs. 40,00,000/- from the defendant and the costs of the Suit.

Case of the Plaintiffs:

2. It is the case of the plaintiffs that the plaintiffs had purchased half undivided share each in the entire free-hold built-up Suit Property from Sh. Shiv Kumar Gupta S/o Sh. Jage Ram Gupta *vide* registered Sale Deed dated 26.05.2017.

3. The Sale Deed of half undivided share of the Suit Property was executed in favour of the plaintiff no. 1 on 26.05.2017 registered on 26.05.2017 *vide* Registered Sale Deed No. 2269 in Book No. 1 Vol. No. 3041 on Page Nos. 154 to 164 before the Sub Registrar IIA, Punjabi Bagh, New Delhi (**Ex PW1/C**). The Sale Deed of the remaining half undivided share of the Suit Property was executed in favour of the plaintiff no. 2 on 26.05.2017 registered on 26.05.2017 *vide* Registered Sale Deed No. 2270 in Book No. 1 Vol. No, 3041 on Page Nos. 165 to 175 before the Sub Registrar IIA, Punjabi Bagh, New Delhi (**Ex. PW 1/D**).

4. The plaintiffs claim that along with the Sale Deeds, the original/certified chain of documents of ownership were also handed over to the plaintiffs by the erstwhile owner, Sh. Shiv Kumar Gupta. The plaintiffs also claim that since 26.05.2017, they are in physical possession of the Suit Property.

5. Tracing the chain of ownership of the Suit Property, the plaintiffs claim that:



2024:DHC:7929



- a. The Suit Property was originally a part of the land comprising of 24 Bigha in Khasra Nos. 254, 276, 277 and 278 situated in Village Madipur, Delhi, which was co-owned by Sh. Jagdish, Sh. Jogi, and Sh. Jai Narain, who were the sons of late Sh. Nathan.
- b. In the year 1971, two of the abovementioned co-owners, that is, Sh. Jagdish and Sh. Jogi, executed a Registered General Power of Attorney dated 06.08.1971 registered on 07.09.1971 as document no. 2586 with the Sub Registrar-II, Delhi (**Ex. PW1/E**) in favour of their brother namely, Sh. Jai Narain, whereby they sold/transferred their share in the said land in favour of Sh. Jai Narain.
- c. Sh. Jai Narain then sold 5 Bighas out of 24 Bighas of the said land to Sh. Bahadur Singh and Sh. Mohan Lal, both sons of Sh. Net Ram, and to Sh. Raj Singh and Sh. Kishan, both sons of Sh. Ram Pat, *vide* Registered Sale Deed dated 13.09.1971 registered on 14.09.1971 having Registration No. 10920 in addl. Book No. 1 Volume No. 1519 on pages 169 to 172 (**Ex. PW1/F**).
- d. Subsequently, Sh. Raj Singh and Sh. Kishan executed a General Power of Attorney dated 23.09.1971 in respect of their share of the 5 Bigas out of 24 Bigas of the said land in favour of Sh. Bahadur Singh and Sh. Mohan Lal.
- e. Sh. Bahadur Singh and Sh. Mohan Lal then executed a Registered Sale Deed dated 25.02.1972 registered on 25.02.1972 having Registration No. 2955 in addl. Book No.



2024:DHC:7929



1 Volume No. 1641 on pages 49 to 50 (**Ex. PW1/G**) in respect of Plot No. 14 measuring 250 sq. yards of Khasra No. 254, 276, 277 and 278 situated in Village Madipur, Delhi, in favour of Smt. Ramdey Devi W/o Sh. Dharamvir and Smt. Shanti Devi W/o Sh. Kishan Chand, with both Smt. Ramdey Devi and Smt. Shanti Devi having half undivided share each.

- f. Subsequently, Smt. Shanti Devi transferred her half undivided share in the property in favour of Smt. Savitri Gupta W/o Sh. Shiv Kumar Gupta *vide* Registered General Power of Attorney dated 13.04.1973 duly registered on 13.04.2013 as Document Registration No. 1460 in Book No. IV, Volume No. 298 on Page No. 01 to 02 (**Ex. PW1/H**), and also executed a notarized Agreement to Sell dated 13.04.1973 in respect of her undivided share in favour of Sh. Shiv Kumar Gupta, the husband of Smt. Shanti Devi. Additionally, Smt. Shanti Devi also executed an affidavit, payment receipt, and Will dated 13.04.1973 in favour of Sh. Shiv Kumar Gupta (**Ex. PW1/I**). The plaintiffs claim that it is through the execution of the aforesaid documents that Smt. Savitri Gupta and Sh. Shiv Kumar Gupta came into possession and became the owners of the half undivided portion of the Suit Property.
- g. Later, Smt. Ramdey Devi, the owner of the remaining half share of the property, also sold her half undivided share in the Suit Property to Smt. Savitri Gupta and Sh. Shiv Kumar



2024:DHC:7929



Gupta by executing a Special Power of Attorney and General Power of Attorney dated 29.03.2001 in respect of her half undivided share of the Suit Property in favour of Smt. Savitri Gupta and an affidavit, Agreement to Sell, Will, receipt and Possession Letter dated 29.03.2001 in favour of Sh. Shiv Kumar Gupta. The plaintiffs claim that with the execution of the aforesaid documents Smt. Savitri Gupta and Sh. Shiv Kumar Gupta came in possession and became the owners of the entire Suit Property.

- h. The plaintiffs claim that after purchasing the Suit Property, Sh. Shiv Kumar Gupta was utilizing it as his warehouse and was also paying the requisite MCD Property Tax and other statutory dues for the same.
- i. Subsequently, Smt. Savitri Gupta executed a Registered Sale Deed dated 28.06.2010, registered on 29.06.2010 *vide* Registration No. 4034 in Addl. Book No. 1 Vol. No. 1467 on Page No. 75 to 81 (**Ex. PW1/J**) with respect to her rights in the Suit Property in favour of her husband, Sh. Shiv Kumar Gupta.
- j. Sh. Shiv Kumar Gupta then sold the Suit Property to the plaintiffs *vide* Registered Sale Deeds dated 26.05.2017, and since then the plaintiffs have been in the physical possession thereof and were utilising the Suit Property for their own personal use. The plaintiffs claim that the electricity meter and telephone in the Suit Property are also installed in the name of the plaintiffs. The plaintiffs produced the Electricity



2024:DHC:7929



Bills and Telephone Bills as installed in the Suit Property as
Mark D.

6. The plaintiffs claim that in the month of July, 2018, some anti-social elements through some property dealers started stating that the Suit Property is owned by some other person. At that time the plaintiffs were not aware of the name of such person. Later, however, when the plaintiffs came to know that the third person had created a forged chain of documents in respect of the Suit Property, the plaintiffs, on 13.07.2018, lodged a complaint against the defendant and his associates with the Commissioner of Police, Police Headquarter, ITO, Delhi-110002 *vide* CCTN No.776/18 (**Mark A**).

7. The plaintiffs claim that while the inquiry of the aforesaid complaint was going on and the plaintiffs were enjoying the peaceful possession of the Suit Property, they were served with the summons of a suit for permanent injunction filed by the defendant against the plaintiffs, being Civil Suit No. 1396/2018, titled *Nirmal Jindal v. Deepak Mehta & Anr.* (**Ex. PW5/1**), wherein it was averred as if the defendant herein is in possession of the Suit Property.

8. It was upon receiving the copy of the plaint and documents filed therein that the plaintiffs came to know that the defendant had got registered the impugned Sale Deed dated 12.03.2018 registered on 12.03.2018 bearing Registration No. 1390 in Book No. 1 Vol. No. 3256 on page no. 53 to 63 (**Ex. PW3/1**) in respect of the Suit Property, in his name, from some Manjeet Singh S/o Late Sh. Hara Singh Panchhi and that with the help of Manjeet Singh, the defendant had created a forged chain of documents stating that late Sh. Hara



2024:DHC:7929



Singh Panchhi had purchased the Suit Property from Sh. Bahadur Singh and Sh. Mohan Lal sons of Sh. Net Ram on 02.05.1984.

9. The plaintiffs claim that on their complaint, an inquiry was conducted by the Vigilance Department of the Police under the supervision of the concerned DCP, and the ownership documents of the defendant were found to be forged. The erstwhile owners namely, Sh. Bahadur Singh and Sh. Mohan Lal, who are still alive, got their statements recorded before the Police Officials stating that they have not executed any General Power of Attorney or Agreement to Sell in favour of Sh. Hara Singh Panchhi and further that they had never sold the Suit Property to any such person.

10. The plaintiffs claim that an FIR No.136/2019 was also registered with the Police Station Paschim Vihar East, under Sections 420/468/471/120-B of the Indian Penal Code, 1860 (in short, 'IPC') (**Ex. PW4/1**) against the defendant and his accomplices.

11. The plaintiffs claim that in the said Civil Suit filed by the defendant against the plaintiffs, the injunction application filed by the defendant under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (in short, 'CPC') was dismissed by the learned JSCC-cum-ASCJ, Tis Hazari Court, Delhi *vide* Order dated 03.06.2019 (**Ex. PW5/2**) on the basis that no *prima facie* case is made out as no record is found to be true and genuine.

12. The plaintiffs assert that the defendant, in connivance with certain unknown persons, has created a forged and fabricated chain of ownership documents with respect to the Suit Property, which was earlier in possession/occupation of Sh. Shiv Kumar Gupta, the



2024:DHC:7929



previous owner, for a period of more than ten years, and since then, the Suit Property was in the exclusive possession of the plaintiffs from 26.05.2017, and on basis of such forged and fabricated documents, the defendant is not only filing frivolous litigations against the plaintiffs, but also extending threats of forceful dispossession of the Suit Property and threats against the lives of the plaintiffs, forcing the plaintiffs to employ two full-time guards at the Suit Property.

13. The plaintiffs further assert that the defendant is having no right or title in respect of the Suit Property and therefore, the Registered Sale Deed dated 12.03.2018, which is a forged and fabricated document, is liable to be declared as illegal, null and void, and the plaintiffs, who despite being the actual owners have suffered grave financial losses due to the conduct of the defendant, are liable to claim damages from the defendant for the said losses suffered by them, and that the plaintiffs are also liable to claim permanent injunction against the defendant due to the continuous threats of sale/transfer/creation of third party interest received from the defendant.

14. Hence, the present Suit.

Proceedings in the Suit:

15. Summons in the Suit were issued to the defendant *vide* Order dated 01.10.2019, and the defendant was duly served with the same on 15.12.2019. An ex-parte order of ad-interim injunction was also passed on 01.10.2019, restraining the defendant from selling, transferring, or creating any third-party interest in the Suit Property. This order was made absolute *vide* Order dated 14.12.2020.



2024:DHC:7929



16. As the defendant did not appear in the Suit and nor did he file his written statement, *vide* Order dated 23.11.2021, the defendant was proceeded *ex parte*.

17. At this stage, the plaintiffs filed an application under Order VII Rule 14 of the CPC, being I.A. 960/2022, for placing on record the FSL Report dated 10.02.2020 (**Ex. PW4/2**) provided to the plaintiffs by the Investigating Officer in FIR No. 136/2019 registered with PS Paschim Vihar East, reflecting that the defendant had used forged documents to prepare the chain of ownership. The said application was allowed by the learned Joint Registrar (Judicial) by Order dated 28.02.2022, taking the FSL Report on record.

18. The plaintiffs examined Mr. Ram Krishan Singh as PW3 on 31.03.2022. He was working as Guard (CDV) in the Office of the District Magistrate (West) and brought the summoned record, that is, the original Sale Deed executed by Manjit Singh S/o late Sh. Hara Singh Panchhi having Registration No.1390 in Book No. 1 Vol. 3256 on pages 53 to 63 in favour of the defendant with respect to the Suit Property. He also brought with him the certified true copy of the said Sale Deed (**Ex.PW3/1**).

19. The plaintiffs also examined SI Pankaj Saroha of Police Station Paschim Vihar (East) as PW4, on 31.03.2022. He brought with him the summoned record, being the FIR No. 136/2019 registered with PS Paschim Vihar (East) Delhi under Sections 420/468/471/120B of the IPC (**Ex.PW4/1**), the Original report of India Security Press, Nashik Road, Maharashtra and the documents sent for examination (**Ex.PW4/2 (Colly.) (total 9 pages)**) and the copy of the original Sale



2024:DHC:7929



Deed of Manjit Singh, S/o late Sh. Hara Singh Panchhi in favour of the defendant in respect of the Suit Property (**Ex.PW4/3**). He further stated that he is the Investigating Officer of the aforesaid FIR and has not recorded any statement of Sh. Bahadur Singh and Sh. Mohan Lal as summoned through the application.

20. The plaintiffs further examined the plaintiff no.1 as PW-1, on 01.06.2022. He filed his evidence by way of affidavit (**Ex.PW1/1**) reiterating the contents of the plaint and placing reliance on the documents filed therewith.

21. The plaintiffs also examined the plaintiff no.2 as PW-2 on 01.06.2022. He filed his evidence by way of affidavit (**Ex.PW2/1**) basically reiterating the contents of the plaint and relying upon the documents exhibited by PW-1 in his deposition.

22. Mr. Sanjay Dhara, working as a Judicial Assistant in the Court of Sh. Abhishek Kumar (Additional Senior Civil Judge), District West, Tis Hazari Courts, Delhi, was examined by the plaintiffs as PW5, on 18.08.2022. He brought the summoned record pertaining to the original Civil Suit No. 1396/2018 titled as *Nirmal Jindal vs Deepak Mehta* and stated that a copy of the plaint filed in the said suit is **Ex.PW5/1** and copy of the Order dated 03.06.2019 passed in the said suit is **Ex.PW5/2**.

23. The *ex parte* evidence of the plaintiffs was closed *vide* Order dated 18.08.2022, and the matter was put up for *ex parte* arguments.

Submission of the learned Counsel for the Plaintiffs:

24. The learned counsel for the plaintiffs submitted that the



2024:DHC:7929



defendant has created a forged and fabricated Sale Deed date 12.03.2018 in his favour and also created a forged and fabricated chain of ownership documents for the Suit Property by concealing various material facts in order to usurp the same from the plaintiffs.

25. He submitted that the chain of property documents filed by the plaintiffs clearly show that Sh. Bahadur and Sh. Mohan Lal never sold their share in the Suit Property in favour of Sh. Hara Singh Panchhi, and on the contrary, sold their share in favour of Smt. Ramdey Devi W/o Sh. Dharamvir and Smt. Shanti Devi W/o Sh. Kishan Chand.

26. The learned counsel for the plaintiffs submitted that the plaintiffs also filed an FIR No. 136/2019 registered with PS Paschim Vihar (East) Delhi under Sections 420/468/471/120B of the IPC, and the Sale Deed purported by the defendant in his favour was sent for FSL Examination by the police. In the FSL report, it was found that forged documents were used in preparing the chain of ownership documents of the defendant.

27. The learned counsel for the plaintiffs further submitted that the suit for permanent injunction filed by the defendant against the plaintiffs at the Tis Hazari District Courts has also been dismissed in default because of the non-appearance of the defendant.

28. He submitted that the non-appearance of the defendant in the present Suit also clearly shows the *mala fide* intentions of the defendant.

29. He submitted that the plaintiffs have approached the Court



2024:DHC:7929



with clean hands and are entitled to the reliefs as prayed for.

Analysis and Findings:

30. I have considered the submissions made by the learned counsel for the plaintiffs.

31. From the above narration of facts and the documents, the plaintiffs have been able to substantiate the chain of devolution of title of the Suit Property, right from the original owners, that is, Sh. Jagdish, Sh. Jogi, and Sh. Jai Narain, to Sh. Shiv Kumar Gupta, and finally to the plaintiffs, *vide* Sale Deeds dated 26.05.2017. On the other hand, the defendant has remained *ex-parte*. Even the Suit filed by the defendant, that is, Civil Suit No. 1396/2018 titled as *Nirmal Jindal vs Deepak Mehta*, is stated to have been dismissed in default. There is also the India Security Press Report dated 10.02.2020 (**Ex. PW4/2**), which has opined that the non-judicial stamp paper on which the chain of documents alleged by the defendant have been prepared, are forged.

32. In view of the above, the plaintiffs have been able to make out a case for grant of declaration and injunction as prayed for.

33. As far as the damages are concerned, the plaintiffs have not led any evidence on the same. The relief for damages is therefore, rejected. The plaintiffs shall however, be entitled to the costs of the Suit.

Conclusion:

34. Accordingly, the Suit is decreed declaring the Sale Deed dated 12.03.2018 registered on 12.03.2018 *vide* Registration No. 1390 in



2024:DHC:7929



Book No.1 Volume No. 3256 on pages 53 to 63 in respect of the property bearing No. WZ-14, area measuring 250 sq. yds. out of Khasra No. 254, 276, 277 and 278 situated in Village Madipur, Indra Park, Delhi, which is presently known as WZ-14, Hari Singh Park, New Delhi- 110056, as illegal, null and void, and the plaintiffs as the absolute owners of the Suit Property. A decree of permanent injunction is also passed in favour of the plaintiffs and against the defendant, restraining the defendant from executing any documents for transferring or creating any kind of charge, encumbrance or third-party interest in the Suit Property. The plaintiffs are also held entitled to the costs of the Suit from the defendant.

35. Let a decree sheet be drawn accordingly.

NAVIN CHAWLA, J.

OCTOBER 15, 2024/SJ

Click here to check corrigendum, if any