



\$~4 to 6

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

+ CONT.CAS(C) 1438/2022, CM APPL. 7026/2023 & CM APPL. 51054/2023

SMT. ADARSH BHALLA DECEASED

THROUGH LRS & ORS.

.....Petitioners

Through: Ms. Samvartika Pathak and Ms. Mansi Jain, Advocates.

versus

LT. COL. ATUL MANI CHOPRA & ORS.

.....Respondents

Through: Mr. Rohit Oberoi, Mr. Umang Bhatia and Mr. Paramjeet Bhati, Advocates for R-4.

+ FAO 448/2019, CM APPL. 49512/2019, CM APPL. 49514-49515/2019, CM APPL. 25239/2021 & CM APPL. 10776/2023

ATUL MANI CHOPRA

.....Appellant

Through: Mr. Rohit Oberoi, Mr. Umang Bhatia and Mr. Paramjeet Bhati, Advocates for LR-1 of appellant.

versus

ADARSH BHALLA (DECEASED) THR LRS

.....Respondent

Through: Ms. Samvartika Pathak and Ms. Mansi Jain, Advocates.

+ RFA 980/2019, CM APPL. 49436/2019, CM APPL. 49438/2019, CM APPL. 35802/2021, CM APPL. 38065/2021, CM APPL. 1999/2022, CM APPL. 17646-17647/2022, CM APPL. 11461/2023, CM APPL. 44088/2023 & CM APPL. 46177/2023

K.C CHOPRA & SONS HUF & ANR

.....Appellants

Through: Mr. Rohit Oberoi, Mr. Umang Bhatia and Mr. Paramjeet Bhati, Advocates for LR-1 of appellant No.2.



versus

ADARSHA BHALLA (DECEASED)

THR LRS & ORS

.....Respondents

Through: Ms. Samvartika Pathak and Ms.
Mansi Jain, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

30.09.2024

CONT.CAS(C) 1438/2022

1. The petitioner alleges contempt of an order dated 18.01.2022, passed by this Court in RFA 980/2019.
2. The appeal was filed by two appellants, Mr. K.C. Chopra & Sons Hindu Undivided Family [“HUF”], and its *karta* - Mr. Atul Mani Chopra. The appeal is directed against a judgment of the Trial Court dated 29.08.2018, dismissing a suit for declaration and cancellation of a will dated 04.01.1989, allegedly executed by late Mr. K.C. Chopra. The petitioners in this contempt petition are the respondents in the appeals.
3. By the order dated 18.01.2022, the Court passed the following operative directions:

“6. In view of the judgment dated 29.08.2018, the appellant is bound to secure the money lying in the account of M/s.K C Chopra & Sons HUF as on 29.08.2018.

7. The learned counsel for the appellant has argued the entire school record show the appellant was very much an adopted son of late Shri K C Chopra and even he talks about two settlements between the parties wherein he was authorised to conduct the business of M/s.K C Chopra & Sons HUF.

8. Nevertheless, there exist a judgment against the appellant therein



and he needs to protect the amount which he had withdrawn from the account of M/s.K C Chopra & Sons HUF. Let the appellant file an affidavit stating as to how much amount was lying in the account of M/s.K C Chopra & Sons HUF as on 29.08.2018 and dates of withdrawal of such amounts and how he intends to secure such an amount since there exist a judgment against him. Let above affidavit be filed by appellant within four weeks from today with an advance copy thereof to the learned counsel for respondents.

9. The learned counsel for the appellant submits till the next date of hearing, the appellant is not intending to leave the country without prior permission of this Court.”

4. It is undisputed that Mr. Atul Mani Chopra did file an affidavit in compliance with the aforesaid order. However, the submission of Ms. Samvartika Pathak, learned counsel for the contempt petitioner, is that the affidavit was not in terms of the order, insofar as it did not provide any means of security for the entire amount of the judgment. Instead, the affidavit dated 08.04.2022 *inter-alia* stated as follows:

“7. That by the end of 2016, KC Chopra & Sons, HUF had received the sale consideration from Dr. Ruchi Srivastava, the purchaser of the property bearing No.C-354, Defence Colony, New Delhi and also the amount equivalent to the last paid rent in pursuance to the settlements which was approximately of Rs15,33,60,000/- (Rupees Fifteen Crores Thirty Three Lacs Sixty Thousand Only). That, upon credit of such a huge amount and declaration to the Income Tax Department were made. The Capital Gain tax was deducted amounting Rs.3,58,14,674/- (Rupees Three Crores Fifty Eight Lacs Fourteen Thousand Six Hundred Seventy Four Only) and thereafter, Income Tax for FYs - 2016-17, 2017-18, 2018-19, 2019-20, amounting to Rs.1,29,92,205/- (Rupees One Crore Twenty Nine Lacs Ninety Two Thousand Two Hundred and Five only) were deposited.

8. That the balance as on 03.05.2019 was Rs.13,71,41,394/- in the Saving Bank Accounts no.31067835353 in the name of KC Chopra & Sons HUF with State Bank of India, Tilak Nagar Branch, New Delhi. The deponent say that the. said amount was divided amongst the coparceners of the HUF as per my knowledge, whereby, it was divided in four parts being an equal amount of Rs.3,42,84,400/- (Rupees Three Crores Forty Two Lacs. Eighty Four Thousand Four Hundred only).

xxx

xxx

xxx

11. Thus, I, the Deponent can give surety and undertaking for the amount



which has been received by the deponent and wife Smt. Kiran. Chopra upon the dissolution of the HUF in compliance of the order dated 18.01.2022, to the extent that as and when ultimately the matter attains finality and in that case, it is held against the deponent that the alleged amount is withdrawn, by the deponent wrongfully, the deponent shall be liable to pay the amount as to be decided by this Hon'ble Court by ultimate decision in this case by the competent court of jurisdiction."

5. In the contempt petition, the contempt petitioner has arrayed Mr. Atul Mani Chopra, his two sons, and his wife as respondents. It is the contention of Ms. Pathak that all four persons have benefited from amounts lying to the credit of the HUF.

6. Mr. Atul Mani Chopra has died on 01.01.2023, during the pendency of the contempt petition.

7. The order of this Court dated 21.03.2022 in RFA 980/2019, in its operative directions, required filing of an affidavit by the appellants in the appeal, i.e., HUF and Mr. Atul Mani Chopra. The affidavit was in fact filed. Ms. Pathak contends that the contents of the affidavit give rise to an apprehension that the assets of the HUF have been dissipated by its coparceners to the detriment of the respondents in the appeal. These facts may well give rise to consideration of the interim arrangement to be passed in the appeals, but, on balance, I do not find any reason to proceed with the contempt proceedings. Contempt proceedings can be instituted only if there is a wilful and manifest disobedience of a clear and unambiguous order of the Court. In the present case, the directions were for filing of an affidavit, stating the appellant's intention with regard to security, and recording of a statement that the appellant will not leave the country without prior permission of the Court. There was no other injunction or interim order. The withdrawal of the amounts also occurred



prior to the date of the order.

8. For the aforesaid reasons, I do not consider it appropriate to keep the contempt proceedings pending. The contempt petition is, therefore, disposed of. However, it is made clear that this will not affect the rights and contentions of the parties in the pending appeals, including with regard to the interim arrangements that ought to prevail during the pendency of the appeals.

9. Pending applications also stand disposed of.

FAO 448/2019, CM APPL. 49512/2019, CM APPL. 49514-49515/2019, CM APPL. 25239/2021 & CM APPL. 10776/2023 and
RFA 980/2019, CM APPL. 49436/2019, CM APPL. 49438/2019, CM APPL. 35802/2021, CM APPL. 38065/2021, CM APPL. 1999/2022, CM APPL. 17646-17647/2022, CM APPL. 11461/2023, CM APPL. 44088/2023 & CM APPL. 46177/2023

1. Both these appeals are directed against a common judgment dated 29.08.2018, by which the learned Trial Court has granted probate of a will dated 04.01.1989 of late Mr. K.C. Chopra, and dismissed the suit filed by the HUF and Mr. Atul Mani Chopra, claiming to be its *karta*, for declaration and cancellation of the same will.

2. Mr. Atul Mani Chopra has died during the pendency of the appeals. His legal heirs took no steps to have themselves impleaded, but the respondents have filed CM. APPL. 10776/2023 in FAO 448/2019 and CM APPL. 11461/2023 in RFA 980/2019 for substitution of three legal heirs of late Mr. Atul Mani Chopra:

1. Mrs. Kiran Chopra (Wife)
W/o Lt. Col. Atul Mani Chopra,
8/1, Atur Park, 5 Koregaon Road,
Pune – 411001.



2. Mr. Vivek Chopra (Son)
S/o Lt. Col. Atul Mani Chopra,
8/1, Atur Park, 5 Koregaon Road,
Pune – 411001.
3. Mr. Vikram Chopra (Son)
S/o Lt. Col. Atul Mani Chopra,
8/1, Atur Park, 5 Koregaon Road,
Pune – 411001.
3. Mrs. Kiran Chopra, wife of late Mr. Atul Mani Chopra, has filed a reply to CM. APPL. 10776/2023 in FAO 448/2019, stating that she does not have any idea about the case, but wishes to be impleaded as the appellant in place of her late husband.
4. The reply also states that she has no knowledge of the whereabouts of her two sons, and is not able to represent them or accept service of any summons on their behalf.
5. Having regard to the nature of the disputes, particularly to the fact that a probate order is also in issue, it is necessary to serve notice of these appeals upon the sons of the late appellant. The appellants are directed to file appropriate applications for the purpose of service upon the sons of the late appellant.
6. List on 13.02.2025.

PRATEEK JALAN, J

SEPTEMBER 30, 2024
SS/