



2024:DHC:7609-DB



\$~30

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

+ **CONT.CAS(C) 1565/2024**

HANS NAGAR

....Petitioner

Through: Mr. Rajesh Yadav, Sr. Advocate
alongwith Mr. Arun K. Sharma,
Advocate

versus

JOHN NAGAR AND ANR

.....Respondents

Through: Mr. Anupam Lal Das, Sr.
Advocate with Mr. Ujjwal Jha,
Mr. Rohan Gupta and Mr.
Anirudh Singh, Advocates for R-1
and 2
Mr. Abhinav Singh and Mr.
Praveen Kaushik, Advocates for
GNCTD

%

Date of Decision: 30th September, 2024

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, CJ : (ORAL)

1. Present contempt petition has been filed under Sections 11 & 12 of Contempt of Courts Act, 1971 against the respondents, alleging violation of orders dated 13th February, 2019, 6th September, 2019, 22nd July, 2021 and 2nd August, 2024, of this Court in FAO(OS) 3/2019 titled "*Dr Hans U Nagar V John Nagar & Anr*".

2. Mr. Rajesh Yadav, learned senior counsel appears for the petitioner. He states that the petitioner had filed an appeal bearing FAO(OS) No. 3/2019 challenging order dated 29th October, 2018 passed by the learned Single Judge. He states that *vide* the order dated 20th

Signature Not Verified

Digitally Signed
By: MADHU KARDANA
Signing Date: 03.10.2024
17:03:05

CONT.(CAS) 1565/2024

Page 1 of 5



2024:DHC:7609-DB



February, 2018 in Ex.Pet No. 20/2019, the Court had directed that the keys of two rooms existing in Farm No.8, Nagar Estate, Village Gadaipur, Mehrauli, New Delhi be handed over to Mr. B B Gupta, Senior Advocate appearing for petitioner in the said matter. He also states that this Court in FAO(OS) No. 3/2019 *vide* the order dated 13th February, 2019 directed *status quo* with respect to keys of the two rooms in the aforesaid Farm. No.8 to be maintained. He also states that *vide* order dated 6th September, 2019, the order dated 13th February, 2019 was confirmed till the disposal of the appeal.

3. Subsequently, *vide* the order dated 22nd July, 2021, this Court had observed that any sale made in violation of the Court's order will be governed by the doctrine of *lis pendens*. He states that on 31st July, 2024, the petitioner filed CM.APPL. No. 43889/2024 in the said appeal seeking direction to restrain the respondent nos. 1 & 2 from alienating the immovable properties which form subject matter of FAO(OS) No. 3/2019. He states that on 2nd August, 2024, this Court issued notice in the said application. He claims that on 2nd September, 2024, a statement of counsel for one of the alienees of Farm No.5, Nagar Estate, Village Gadaipur, Mehrauli, New Delhi was recorded by the learned Single Judge to the extent that the said property has been sold to third parties. Predicated on the above, he states that the petitioner has approached this Court on the premise that the respondents have violated the orders dated 13th February, 2019, 6th September, 2019 and 22nd July, 2021 passed by this Court.

4. When the aforesaid issue was put to Mr. Anupam Lal Das, learned senior counsel for the respondents, he, on instructions, states that no contempt at all has been committed by any of the respondents. He states that undisputedly, the property bearing Farm No.8, Nagar Estate, Village

Signature Not Verified

Digitally Signed
By: MADHU KARDANA
Signing Date: 03.10.2024
17:03:05

CONT.(CAS) 1565/2024

Page 2 of 5



2024:DHC:7609-DB



Gadaipur, Mehrauli, New Delhi fell to the share of the respondents which is recorded in Memorandum of Understanding dated 15th September, 2011. He further states that the said factum was also a part of the Consent Decree dated 12th April, 2012. On that basis, he states that the respondents have sold their own property registered in their names as a matter of right. He states that the same cannot amount to contempt of any order. Moreover, as a clarification he states that the two rooms which are servant quarters have not been sold. Thus, according to him, there is no contempt of any order passed by this Court.

5. Having heard learned senior counsel for the parties, we are of the firm opinion that no case for contempt was made out by the petitioner. A combined and harmonious reading of the orders dated 13th February, 2019, 6th September, 2019 and 22nd July, 2021 indicates that the Court was conscious of the right of the respondents over the property. The said orders are reproduced hereunder for clarity:-

The order dated 13th February, 2019:-

“...List on 12th April, 20 19. Parties are requested to seek adjournment of the execution proceedings beyond 12'h April, 2019. Till the next date of hearing, status quo with respect to keys of the two rooms, as is existing today, shall be maintained.”

The order dated 6th September, 2019:-

“1. The present appeal has been placed before this Bench after being released from Part-Heard by the predecessor Bench. Vide order dated 13.02 .2019, it was directed by the predecessor Bench that till the next date of hearing, status quo with respect to the keys of the two rooms as existing on the said date shall be maintained.

2. We are informed that the keys of the two rooms are in the custody of Mr.B.B.Gupta, Senior Advocate who is appearing on behalf of the appellant/JD- 1 in the Execution Petition (Ex.Pet. No.20/20 13).

3. Learned counsel for the parties state that the said keys can remain in the custody of Mr.B.B.Gupta, Senior Advocate till the disposal of the appeal.



2024:DHC:7609-DB



4. Learned counsel for the respondents No.1 & 2 state that the execution petition filed by the respondents/decreed holders has been stalled due to the pendency of the present appeal.

5. We make it clear that the status quo order referred to above is only in respect of the two rooms mentioned in the order dated 13.02.2019 and the respondents/decreed-holders shall be entitled to pursue the pending Execution Petition in respect of the remaining relief even during the pendency of the present appeal.

6. List the appeal on 12.02.2020, in the category of 'After Notice Miscellaneous Matters' for arguments."

The order dated 22nd July, 2021:-

"CM APPL. 21574/2021

Issue notice. Mr. Ujjwal Jha accepts notice on behalf of respondents.

Reply to the application be filed within two weeks. Rejoinder thereto, if any, be filed before the next date.

On the next date, the Court shall endeavour to hear the appeal itself as well, apart from dealing with the present application. The parties shall not seek nor be granted any adjournment. We leave it open to the parties to file their respective written synopsis of their arguments that they wish to advance not exceeding more than three pages before the next date.

The grievance raised by the appellant is with regard to the alleged sale of properties by the respondents which is claimed to be in breach of the orders passed by this Court. This position is disputed by the respondents.

It goes without saying that the sales that have been made or that may be made in breach of the Court's order will be governed by the doctrine of lis pendens.

List on 31.08.2021."

(emphasis supplied)

6. On a reading of the three orders referred to above, it is apparent that these orders were confined only to the two rooms mentioned in the order dated 13th February, 2019 and not to the subject property in question as Mr. Yadav, learned senior counsel for the petitioner would



2024:DHC:7609-DB



like us to believe. It appears that the present contempt petition has been filed on a misreading of the aforesaid orders. Moreover, we are satisfied with the statement given by Mr. Anupam Lal Das, learned senior counsel and are of the opinion that the present petition can be disposed of on the said statement.

7. There is no merit in the present petition and is disposed of accordingly.

CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 30, 2024/rl