



2025:DHC:3128-DB



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

Date of decision: 30.04.2025

+ **FAO(OS) 51/2025**

OM GULATI

.....Appellant

Through: Mr. Mandeep Singh Vinaik, Ms
Anjali Sharma, Mr S.K Sagar,
Ms Ragini Vinaik and Ms.
Gaikhuanlung, Advs.

versus

RAJIV GULATI HUF AND OTHERSRespondents

Through: Ms. Neha Kapoor and Mr.
Kaushal Mehta, Advs. for R-1
and 2.
Mr. Arunav Pattnaik, Ms.
Bhabhna Das, Ms. Jagriti
Pandey and Ms. Anju Rani,
Advs. for R-3 and 4.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 25862/2025 (Exemption)

1. Allowed, subject to all just exceptions.

CAV 158/2025

2. As Ms. Bhabhna Das, Advocate, has entered appearance on
behalf of the respondent no. 3/caveator, the caveat stands discharged.

FAO(OS) 51/2025 AND CM APPL. 25861/2025

3. This appeal has been filed the appellant, challenging the Order
dated 02.04.2025 passed by the learned Single Judge of this Court in



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I.A. No. 5286/2025 in CS (OS) 133/2025, titled ***Om Gulati v. Rajiv Gulati HUF & Ors.***, vacating the *ad-interim* order of injunction dated 28.02.2025.

4. The appellant has filed the above Suit *inter alia* alleging that the respondent no. 1 is the Hindu Undivided Family (hereinafter referred to as, 'HUF'), constituted by the respondent no. 2 as its *Karta*, and the appellant, the respondent no. 3, and the respondent no. 4 are the coparceners thereof. In the plaint, it is alleged that the property bearing No. 13 Khan Market, New Delhi was originally residential in nature and has recently been converted into a commercial premises, in or around the year 2019. Further, it is stated that there is another commercial property, bearing No. 8-A Khan Market, New Delhi. The appellant claims that he being one of the coparceners, is entitled to 1/4th share in the said properties. Interestingly, in the plaint, there was no mention as to when, in whose names, and by whom, these properties were acquired. In fact, there is also no mention of when and by whom the HUF was created. The plaint, on a *prima facie*, reading is completely devoid of any material averments.

5. Be that as it may, the learned Single Judge of this Court, on the very first day of the Suit being listed before it, that is, on 28.02.2025, granted an *ad-interim* order of protection in favour of the appellant herein, restraining any third party right from being created in the above two properties.

6. In the reply/written statements filed by the defendants, it was contended that as far as the property bearing No. 13 Khan Market, New Delhi is concerned, the leasehold rights thereof were purchased



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by the respondent no. 4 on 27.06.1966. The same was thereafter converted to freehold and a conveyance deed dated 27.01.2005 was executed in favour of the respondent no. 4. The 1st and the 2nd floor of the said property was then converted from residential to commercial on 10.12.2020, whereafter it was leased to a third party by the respondent no. 4 on 01.04.2022. It was further contended that as far as the property bearing No. 8-A, Khan Market, New Delhi is concerned, it was contended that the same was taken on lease by the husband of the respondent no. 4- Shri Krishan Lal Gulati in the name of his proprietorship- M/s Sovereign Butter House, vide perpetual lease deed dated 07.07.1961. On demise of Mr. Gulati intestate on 16.09.1995, the same was mutated in the names of his legal heirs, namely, the respondent no. 2 to 4 and Ms. Sonia Gulati, daughter of the respondent no. 4, who is not even a party to the Suit, on 11.06.1996. The said property was converted into freehold in the name of the respondent no. 2 to 4 and Ms. Sonia Gulati vide the Conveyance Deed dated 28.04.2006. The said plea were supported by the documents of Conveyance Deeds and others.

7. Considering the pleadings of the parties and the documents filed by them, the learned Single Judge has vacated the *ad-interim* order of injunction *vide* the Impugned Order.

8. The learned counsel for the appellant submits that the learned Single Judge has proceeded on the basis as if the Conveyance Deeds and other documents placed by the respondents on record have been admitted by the appellant. He further submits that only on the submissions and say-so of the respondents, the learned Single Judge



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could not have vacated the *ad-interim* order of injunction. In support of his contention, he places reliance on the Judgment passed by the Division Bench of this Court in ***Sukruti Dugal v. Jahnavi Dugal & Ors.***, 2020 SCC OnLine Del 241.

9. He further submits that the respondents further disclosed that by a Relinquishment Deed dated 18.02.2025, which was to take effect only from 01.03.2025, the respondent no. 2 had, in fact, tried to relinquish his share in the property bearing No. 8-A Khan Market, New Delhi in favour of the respondent Nos. 3 and 4 and Ms. Sonia Gulati. He submits that as the *interim* order had already been passed on 28.02.2025 in the presence of the respondent no. 2, the said Relinquishment Deed could not be said to have come into operation.

10. We have considered the submissions made by the learned counsel for the appellant.

11. The learned counsels, who have appeared on the advance notice of this appeal for the respective respondents, have also assisted us.

12. At the outset we again highlight that the pleadings of the appellant in the plaint as far the above two properties being owned by the respondent no. 1/HUF are vague and not supported by documents.

13. The learned counsel for the appellant submits that along with the plaint, the Income Tax Returns (hereinafter referred to as, 'ITRs') of the HUF were filed. The learned Single Judge, however, has considered these returns and has noted that as far as the two properties are concerned, in the ITRs there is no mention of the same as being belonging to the HUF. In fact, the ITRs state that the HUF owns no immovable property.



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14. The learned counsel for the appellant has been unable to show any document that would even *prima facie* make us believe that the two properties mentioned hereinabove were part of the HUF or were ever placed by the registered owners of the said properties into the hotchpotch of the HUF. In fact, the ITRs which the appellant himself places on record, state to the contrary as has also been observed by the learned Single Judge.

15. On the other hand, are the documents placed on record by the respondents, which at least *prima facie* show that the properties, since long, have stood in the names of the respondent no. 2 to 4. In fact, one of the recorded owners, namely, Ms. Sonia Gulati, is not even made a party to the Suit.

16. As far as the reliance of the learned counsel for the appellant on the judgment of this Court in ***Sukruti Dugal*** (supra) is concerned, the Division Bench was considering an appeal against an order rejecting the plaint by treating an application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 by treating the same as an application under Order XII Rule 6 CPC. The same was found to be untenable by the Division Bench of this Court. In the present case, however, the learned Single Judge, in the impugned order, has merely considered whether the appellant has been able to make out a *prima facie* case in his favour, which is one of the pre-requisite conditions for grant of an interim injunction. The learned Single Judge has found that the appellant was not able to make out a *prima facie* case in his favour on the basis of the pleadings and documents on record. For the reasons recorded herein above, we find no infirmity in this finding of



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the learned Single Judge.

17. As far as the contention of the appellant that the execution of the Relinquishment Deed dated 18.02.2025 was in violation of the interim injunction, is concerned, we again find no merit. The Relinquishment Deed has been executed prior to the grant of the interim injunction. In absence of any restraint, it has to take effect in accordance with its terms.

18. We, therefore, find the appeal to be devoid of any merit. The same is accordingly dismissed. Pending application(s) also stands disposed of.

19. We, however, make it clear that any observation made by the learned Single Judge in the impugned order or by us in the present Order, would not be considered as final expression of opinion on the merits of the claims of the parties. We further make it clear that though the learned Single Judge in the Impugned Order has recorded that the documents filed by the respondents have been admitted by the appellant, such admission is only confined for the purposes of the *Interim Order* and would not affect the trial of the Suit.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 30, 2025

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Click here to check corrigendum, if any