

Sh. Jaswant Singh & Anr. Vs. Ms. Amrita Singh

25.08.2020

Present : Ld. Counsel Sh. Sahej Uban for the plaintiffs.  
Ld. Proxy Counsel Sh. Shivam Malhotra for the defendant  
Sh. Krishna Kumar Sharma, Sr. P.A. in the Court of the undersigned.  
Sh. Anil Kumar, Ahlmad in the Court of the undersigned.

**ORDER**

1. Vide this order, the undersigned shall decide an application Under order 39 Rule 1 & 2 r/w section 151 CPC filed on behalf of the plaintiffs seeking ad-interim Ex-parte injunction against the defendant restraining her from creating any third party interest in the 'suit property'.

2. The brief facts as put forth by the plaintiffs is that, they are the joint owners of the property bearing No. R-741, New Rajinder Nagar, New Delhi-110061 ad-measuring 236 sq. yds. vide registered sale deed dated 04.09.1990, copy of which is filed on record (hereinafter referred to the "suit property"). Whereas the defendant was permitted by the plaintiffs to occupy and reside on the first floor of the 'suit property' comprising of two rooms, being grand daughter and she has been residing there since 1989.

3. It is the case of the plaintiffs that defendant has forcefully occupied one more room on the first floor of the 'suit property'. The site plan of the first floor of the 'suit property' has been annexed as Annexure-G in the suit. It is further the case of the plaintiffs that behavior of the defendant towards the plaintiffs is very rude, hence they were forced to debar her from inheriting the movable and immovable properties from the estate of the plaintiffs namely Sh. Jaswant Singh & Smtt. Charanjit Kaur by way of the public notice, which was got published in the newspaper 'The Indian Express and 'Jan Satta' on 04.09.2019 & 05.09.2019 respectively. The plaintiffs have also lodged police complaints against the defendant with PS Rajinder Nagar, Delhi, but police did not take any action till date. The plaintiffs namely Jaswant Singh and Smt. Charanjit Kaur are senior citizens and bed ridden being more than 80 years of age. The plaintiff No. 1 is a cancer patient and plaintiff No.2 is a patient of high sugar & has already undergone Hip surgery.

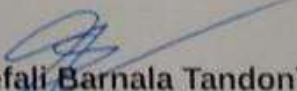
4. The notice of the present application was given to the defendant and she

was represented by Ld. Counsel Ms. Rajni Chauhan in VC on 06.08.2020, during which, the Ld. Counsel for defendant submitted before the Court that the defendant has no intention to create any third party interest and she is ready to give her statement to this effect. Accordingly, the defendant was directed to file her statement through email, as the Court was not functioning physically. However, on the next date of hearing i.e. 14.08.2020 there was a change of counsel and the new counsel Mr. Udit Nagar submitted that the earlier counsel had no instruction by the defendant to make any submission/statement before the Court.

5. Arguments on the application have been heard on behalf of both the parties and perused the record carefully.

6. Considering the facts and circumstances of the present matter, the Court is of the considered opinion that plaintiffs *prima facie* are owners of the '*suit property*' as per the documents filed on record. It is the contention of the defendant that the *suit property* has been purchased from the joint family/ancestral funds, however, it is a matter to be decided on merits. The plaintiffs are also senior citizens and their rights need to be protected. The plaintiffs will face irreparable injury/loss, if defendant succeeded in creating third party interest in the '*suit property*'. Accordingly, the defendant is restrained from creating any third party interest in the '*suit property*' till further orders, as of now. However, anything said in the present order would not tantamount to expression of any option on the merits of the case.

7. Put up for filing of written statement by the defendant within stipulated time of 30 days physically or through email, with advance copy to the plaintiffs, for 19.11.2020.

  
(Shefali Barnala Tandon)  
ACJ-cum-ARC (Central)/THC/Delhi  
25.08.2020 (s)