

CIS No...../20
Ankur Mahajan Vs.
Sushma Mahajan & Ors.

Through Cisco Webex Video Conferencing

28.05.2020.

Present application for urgent hearing regarding proceedings of application filed U/o 39 Rule 1 & 2 CPC, for exparte ad-interim stay, filed by plaintiff, received by way of assignment. It be checked & registered.

Present : Sh. Manish Kapur, counsel for plaintiff. (M. No. 9899610720).

The present application has been put before the undersigned by the Filing Section, Tis Hazari Courts Delhi, which was received by the undersigned through official e-mail.

Arguments on injunction application, heard.

At this stage, no ground is made out for exparte injunction. Considering the gravity of the matter, short date is given. Notice of this injunction application alongwith plaint and copy of annexures annexed with the plaint, be served to defendants through all electronic modes including E-mail, WhatsApp, Fax and Messaging on their mobile numbers. Plaintiff is also directed to file affidavit regarding service of defendants alongwith proof of that service on the next date of hearing.

The matter is urgent in nature.

Ld. Counsel for plaintiff submits that this suit was filed by plaintiff in April, 2020.

Submission noted.

Put for arguments on injunction application after service of defendants, on 01.06.2020.

Copy of this order be sent to counsel for plaintiff for its compliance and to the Filing Branch, Tis Hazari Courts, Delhi.


[PRASHANT SHARMA]
ADJ-05: WEST DISTRICT
TIS HAZARI COURTS: DELHI
(Duty Officer)

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Present : Ms. Rhythm Sheel Srivastava, counsel for plaintiffs. (Mobile No. 8447689629, E-mail- advocaterhythm12@gmail.com).
Sh. Gurpreet Singh, counsel for defendants (Enroll No. D/8090/18, M. No. 9313563111, E-mail adv_digvijaysingh@yahoo.com).

Arguments on application for injunction filed by plaintiffs, partly heard.

Counsel for plaintiff has argued the application for injunction. It is the case of plaintiffs that they are residing in property no. WZ-24, Street No. 13, Krishna Park, New Delhi-110018 (hereinafter referred as 'suit property') from beginning. It is their case that the suit property is ancestral property. Now, plaintiffs have apprehension that defendant may create third party interest in said property and hence, they have prayed that till the disposal of the suit, defendants be restrained from creating third party interest in the suit property.

Per contra, counsel for defendants has vehemently argued the suit property is not ancestral property as claimed by plaintiffs. As per defendants, said property is self acquired property of defendants which they had purchased on 06.01.2005. Counsel for defendant has further argued that plaintiffs are residing in suit property as licensees of defendants. It is also argued by counsel for defendants that plaintiffs have stated false averments in the plaint to the effect that plaintiffs have no other property with them. As per counsel for defendants, there is immovable property in the name of plaintiffs which plaintiffs have hid from the Court. Counsel for defendants has further submitted that present suit is false and plaintiffs are wasting the precious time of the Court. Lastly, counsel for defendants has submitted that plaintiffs had filed two previous suits bearing no. 147/20 and 153/20, which were withdrawn by plaintiffs. In these circumstances, as per counsel for defendants, by filing the present suit plaintiffs are trying to waste the precious time of the Court.

Aforesaid submissions are re-butted by counsel for plaintiffs who have submitted that plaintiffs have no doubt had filed the aforesaid previous suits but they were withdrawn by plaintiffs in order to avoid legal and technical error. Further, she has submitted that law does not bar plaintiffs from filing the present suit and previous withdrawal of the suits as such have no material bearing on the present application.

After hearing arguments, I find that submissions made by counsel for defendants which were based on documents, at this stage cannot be appreciated for the purpose of adjudication of the application in hand as those documents are not before me and copies of the said documents have not been supplied to counsel for plaintiffs. At the same time, counsel for defendants in response to the query put by the Court has admitted the fact that plaintiffs are residing in the suit property as on date. He has also admitted the fact that there is relationship amongst the parties as mentioned in the plaint. In such circumstances, when complete set of documents and reply of defendants in response to the injunction application, which is not before the Court, injunction application cannot be decided on merits finally. At the same time, I find that in case, third party interest is created by defendants at this stage or before next date of hearing, then suit of the plaintiffs will become infructuous. In such circumstances, defendants are restrained from creating third party interest in the suit property in question, till next date of hearing. The injunction application shall be heard and decided on merits on the next date of hearing.

The aforesaid observation made by the Court today, should not be observed as finality on the stay application. This order is ad-interim order. Defendants are directed to file their written statement, reply to the injunction application and documents they have relied in support of their written statement and file reply in the Court within 15 days from now.

Defendants are further directed to file written as well as soft copy of written statement, reply to the injunction application and documents. They are further directed to supply the copy of the written statement, reply to the injunction application and documents to counsel for plaintiffs electronically through all modes including WhatsApp, E-mail, Fax and likewise. Counsel for plaintiffs is directed to confirm the receiving of the same to counsel for defendants through aforesaid electronic modes. Counsel for plaintiffs is at liberty to file replication in response to the written statement of defendants.

With aforesaid directions, matter adjourned.

Put up for completion of pleadings and arguments on application for injunction on 16.06.2020.

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Copy of this order be sent to counsels for the parties for information and its compliance and to the Filing Branch, Tis Hazari Courts, Delhi.


[PRASHANT SHARMA]
ADJ-05: WEST DISTRICT
TIS HAZARI COURTS: DELHI
(Duty Officer)