

IN THE COURT OF SH. BHARAT AGGARWAL, CIVIL**JUDGE, DELHI (WEST)-02****SUIT NO. /2020**

Sh. Ankur Mahajan

.....Plaintiff

Versus

Mrs. Sushma Mahajan & Others

.....Defendants

HEARING THROUGH CISCO WEBEX APPLICATION-**VIDEO CONFERENCING**

Date:17/06/2020

(2.50 P.M to 3.17 P.M)

Present:- Sh. Rahul Tiwari, Ld. Counsel for plaintiff. (Mobile No.9958207800- Enrollment No.D/2018/15)

(E-mail ID of Sh. Rahul Tiwari : r.tewari88@gmail.com)

Sh. Sanjay Rathi, Ld. Counsel for defendants. (Mobile No.9811075210- E-mail ID of Sh. Sanjay Rathi: advsanjayrathi@gmail.com)

1. The present matter has been marked to this Court by the office of Ld. SCJ, West, THC and was heard through video conferencing where counsels of both the parties participated. Perusal of the last order dated 01/06/2020 passed by the Ld. ADJ-01, Tis Hazari Court, Delhi (Duty

Officer) reveals that some time was sought by the ld. counsel for the defendants to file documents in favour of the defendant no.1 alongwith complete chain of ownership documents in respect of the suit property. Further, counsel for the plaintiff submitted on that date that he will take appropriate steps for amending the plaint to incorporate the relief of cancellation with regard to registered sale deed existing in favour of the defendant no.1.

Thereafter, the matter was put up for hearing today for arguments on the interim injunction application.

2. Ld. Counsel Sh. Rahul Tiwari, who appears for the plaintiff submits that he is a new counsel engaged by the plaintiff only two days back to contest the present case. He further submits that he would file his signed vakalatnama electronically on the court's official e-mail address i.e. (readercj02west@gmail.com) during the course of the day and also supply the copy of the same to the counsel for the defendants electronically. Let it be filed during the course of the day.

3. Ld. Counsel for the plaintiff has briefly argued that the defendant has an intention to create third party interest in the suit property i.e. property bearing No.D-132, Third Floor, Mansarovar Garden, New Delhi and, therefore, he submits that status quo with regard to the suit property be maintained. He further prays that as plaintiff is in the possession of the suit property he shall not be dispossessed illegally and, an interim injunction in this regard till next date of hearing be granted. Upon query of the court regarding amendment application sought to be moved on behalf of the plaintiff, it was submitted by the counsel for the plaintiff that the application could not be prepared due

to lack of time and he prayed for three days' time in order to prepare the application seeking amendment in plaint.

4. On the other hand, it was briefly argued by the Id. counsel for defendants that plaintiff has no right in the suit property and the suit property has already been sold by the defendant no.1 to a third party. He further argued that the main relief in the suit as well as in the injunction application pertains to restraining the defendants from creating third party interest in the suit property which has already become infructuous in view of the sale of suit property by defendant no.1 to a third party and that the suit shall be dismissed as such.

5. During the course of the hearing, counsel for the plaintiff admitted that the grounds on which the injunction against creation of third party interest is sought has not been mentioned in the plaint and, therefore, amendment of the plaint is essential. This court is of the considerate opinion that no case for ad-interim injunction is made out at this stage unless the proper facts are disclosed by the plaintiff.

6. In view thereof, this court deems it appropriate that three days' time be granted to the plaintiff to file an application seeking amendment of the plaint alongwith amended plaint after supplying advance copy to the defendants or their counsel. The defendant no.1 is also directed to file the copy of the sale deed by which allegedly third party interest has already been created in respect of the suit property. The parties shall file the appropriate documents/pleadings electronically on the court's official e-mail address i.e. (readercj02west@gmail.com) and shall mark the other party on the same email.

7. Now, put up for arguments on the amendment application and also for arguments on the interim application on 22/06/2020 (Monday) at 2.00 P.M through video conferencing.

A copy of this order be sent to the Ld. Counsel for plaintiff and defendants and also to the filing/computer branch of Tis Hazari Court, Delhi.


Bharat Aggarwal

C.J-02, West, THC, Delhi

dt. 17/06/2020