

RC/ARC No. 90/17

Rajeev Srivastava Vs. Kewal Kishan Sabharwal
(Through Cisco Webex Video Conferencing)

15.07.2020

The matter is taken up through video conferencing in view of the order No. 17/DHC/2020 dated 14.06.2020 of Hon'ble Delhi High Court and order dated 14.06.2020 of Ld. District & Sessions Judge (H.Q.), Tis Hazari Courts, Delhi.

Present: Sh. T. C. Sharma, Ld. Counsel for the petitioner.
Ms. Chhavi Sabharwal, daughter of defendant.

Matter is fixed for final arguments, an adjournment is though requested on behalf of respondent on the ground that respondent is not keeping well.

Perusal of the record shows that none has appeared on behalf of respondent on previous date of hearing as well. On much insistence, one final opportunity granted to the respondent to address the arguments in this case. Both the parties are at liberty to furnish written submissions in advance on the dedicated email ID i.e. readeracjwest@gmail.com of this Court. In case any of the party fails to comply with the directions as above, order would be passed on the basis of material already on record.

Put up for final arguments on 27.07.2020 at 11:00 AM through video conferencing on CISCO WEBEX.

(AKASH JAIN)
ACJ/CCJ/ARC(W)/15.07.2020

CS/SCJ No. 9178/16

Neena Anand Vs. Anil Kumar Chhabra

(Through Cisco Webex Video Conferencing)

15.07.2020

The matter is taken up through video conferencing in view of the order No. 17/DHC/2020 dated 14.06.2020 of Hon'ble Delhi High Court and order dated 14.06.2020 of Ld. District & Sessions Judge (H.Q.), Tis Hazari Courts, Delhi.

Present: Plaintiff in person along with Ld. Counsel Sh. Apoorav Sharma. (Email ID:- apoorav.advocate@gmail.com)

Sh. Shashi Shanker, Ld. Counsel for the defendnant.
(Email ID:-

Matter is at the stage of final arguments, however, it is submitted by Ld. Counsel for the defendant that defendant is not in contact with him for past some time and despite efforts made by him, no instructions could be sought from the defendant in this case.

At this stage, it is pointed by Ld. Counsel for the plaintiff that evidence of defendant was closed at the instance of Ld. Counsel for the defendant earlier in this case as defendant was reportedly not in contact with him. It is submitted that defendant is deliberately delaying the adjudication of this case.

Since, the present matter is more than 5 years old and at final stage, this Court deems it expedient to give one more opportunity to



defendant to join the present proceedings. As such, fresh notice for arguments be sent to defendant through electronic modes in terms of previous orders.

Both the counsels are at liberty to furnish written submissions on the dedicated e-mail ID i.e. i.e. readeracjwest@gmail.com of this Court within a week from today.

Put up again for final arguments on **27.07.2020 at 11:00 AM through video conferencing on CISCO WEBEX**. Copy of this order be sent to Ld. Counsels for both parties at their e-mail IDs as requested.

(AKASH JAIN)
ACJ/CCJ/ARC(W)/15.07.2020

RC/ARC No. 25857/16

M/s Yaduvanshi Real Estate Pvt. Ltd. Vs. Arun Ahuja

(Through Cisco Webex Video Conferencing)

15.07.2020

The matter is taken up through video conferencing in view of the order No. 17/DHC/2020 dated 14.06.2020 of Hon'ble Delhi High Court and order dated 14.06.2020 of Ld. District & Sessions Judge (H.Q.), Tis Hazari Courts, Delhi.

Present: Sh. Rohan Yadav, Ld. Counsel for the petitioner.
Sh. Vinay Gupta, Ld. Counsel for the respondent.

An email dated 13.07.2020 has been received from Ld. Counsel for the petitioner on the dedicated email ID of this court submitting that he does not wish to pursue the present petition under Section 14 (1)(f) & (j) of DRC Act. (Copy of the said email is attached herewith).

In view of the same, prayers made in the eviction petition under Section 14 (1)(f) & (j) of DRC Act stand dropped.

Final arguments heard on behalf of both parties.

Put up for clarifications, if any/orders on 24.07.2020 at 11:00 AM through video conferencing on CISCO WEBEX.

(AKASH JAIN)
ACJ/CCJ/ARC(W)/15.07.2020

CS No. 513/20

Surinder Singh Sadana & Anr. Vs. Surbir Singh Sadana & Anr.

(Through Cisco Webex Video Conferencing)

15.07.2020

The matter is taken up through video conferencing in view of the order No. 17/DHC/2020 dated 14.06.2020 of Hon'ble Delhi High Court and order dated 14.06.2020 of Ld. District & Sessions Judge (H.Q.), Tis Hazari Courts, Delhi.

Present: Sh. Rakesh Walia, Ld. Counsels for the plaintiffs.
Sh. Arjun Singh Khurana, Ld. Counsels for the defendants.

Today, case is fixed for arguments on the application under Order 7 Rule 11 CPC. However, an adjournment is requested on behalf of Ld. Counsel for the defendants owing to some personal exigency.

At request, put up for arguments on the application under Order 7 Rule 11 CPC on 12.08.2020.

(AKASH JAIN)
ACJ/CCJ/ARC(W)/15.07.2020

CS/SCJ No. 548/19

Mobina Vs. Rajeev Kumar

(Through Cisco Webex Video Conferencing)

15.07.2020

The matter is taken up through video conferencing in view of the order No. 17/DHC/2020 dated 14.06.2020 of Hon'ble Delhi High Court and order dated 14.06.2020 of Ld. District & Sessions Judge (H.Q.), Tis Hazari Courts, Delhi.

Present: Sh. Ajay Kumar, Ld. Counsel for the plaintiff. (Email Id: advthakran78@gmail.com).

Ms. Meena Jha, Ld. Counsel for the defendant. (Email Id:- vivekanand.jha197@gmail.com).

Arguments heard on application under Order 39 Rule 1 & 2.

Vide separate order of even date announced through video conferencing, application under Order 39 Rule 1 and 2 CPC stands dismissed. A copy of this order be sent to Ld. Counsels /parties on their e-mail IDs as requested.

Put up for further proceedings on 05.10.2020.


(AKASH JAIN)
ACJ/CCJ/ARC(W)/15.07.2020

IN THE COURT OF SH. AKASH JAIN, ACJ/CCJ/ARC(WEST)
TIS HAZARI COURTS, DELHI

CS/SCJ No. 548/19
Mobina v. Rajeev Kumar

Mobina
W/o Mohd. Ladden
R/o House No. 47, T-Camp
Hut Block, Kali Basti Jhuggi
Hastal, Uttam Nagar, Delhi

... Plaintiff

Versus

Sh. Rajeev Kumar
S/o Sh. Risal Singh
R/o WZ-49, Jwala Heri
New Delhi-110063

... Defendant

ORDER

1. Vide this order, I shall decide the application under Order 39 Rule 1 and 2 CPC moved on behalf of plaintiff against the defendant seeking grant of ad-interim injunction restraining defendant and his agents from interfering in peaceful possession of the plaintiff, in property no. 12, out of Khasra No. 33/7, ad-measuring 100 Sq. yards situated at Nihal Vihar, in RZF Block, Village Kamruddin Nagar, Delhi (hereinafter referred to as "suit property"), till final disposal of the suit.

2. Brief factual matrix of the case as per plaintiff is that she is the owner and in possession of suit property which was purchased by her on 12.02.1992 from one Sh. Vimal S/o of Sh. Bhola Ram by executing various sale documents and paying valid consideration of Rs 20,000/-. The suit property was previously purchased by Sh. Vimal from original land holders on 06.06.1990 by paying consideration amount of Rs. 15,000/-. It

is averred that plaintiff had constructed one room, a kitchen and a tin shed along with bathroom and boundary walls (with height of 10 feet) at the suit property and the same is in her possession since date of purchase. It is further averred that plaintiff used to visit the suit property in every 6 months and stay there for a day or two to take care of the same.

3. It is alleged that on 26.03.2019 when plaintiff reached the suit property, she was surprised to see defendant along with 4-5 people sitting in front of suit property, who threatened her with life and asked her to leave the property and also claimed ownership qua property in question. A complaint had been lodged by the plaintiff to SHO, Police Station Nihal Vihar on 26.03.2019 in this regard, but to no avail. It is further alleged that since then, defendant had visited the suit property on couple of occasions alongwith some unknown persons and tried to take forcible possession of the suit property. Hence, the present suit is filed by the plaintiff seeking permanent injunction against the defendant and his agents from encroaching in the suit property and interfering in the peaceful enjoyment of possession of the plaintiff in the suit property.

4. Defendant contested the present suit by filing his written statement and took the preliminary objections inter-alia that plaintiff has no locus standi to file the present suit, that suit is without cause of action and is liable to be dismissed for concealment of material facts. It is averred that defendant is infact the owner of the suit property and is in physical possession of the same since 24.03.1993. It is alleged that it is plaintiff and her associates, who are trying to dispossess defendant from the suit property without due process of law. With these submissions, defendant prayed for dismissal of present suit with heavy costs.

5. Vide this application under Order 39 Rule 1 and 2 CPC,

plaintiff has prayed for passing ad-interim injunction in her favour and against defendant to restrain him and his agents from interfering in her peaceful possession of the suit property.

6. I have heard the arguments and perused the material on record carefully.

7. It is well settled that the power conferred under Order 39, Rule 1 and 2 CPC in granting or refusing temporary injunction essentially lies in the realm of discretion of the court. The power, therefore, has to be exercised with the greatest care, caution and in accordance with reasons and sound judicial principles. A person who seeks a temporary injunction must satisfy the Court, firstly that there is a serious question to be tried in suit to dispel cloud of doubt relating to his entitlement and there is probability of plaintiff being entitled to the relief sought by him. Secondly, the Court's interference is necessary to protect him from threatened species of injuries enumerated under Order 39, Rules 1 and 2, CPC which the Court considers irreparable before his legal right, can be established on trial. Lastly, the comparative inconvenience which is likely to ensue from withholding temporary injunction would be greater than that which is likely to arise from granting it.

8. Both the parties have placed on record certain photocopy documents viz. GPA, agreement to sell, affidavit, receipt and will qua suit property in their favour. However, all these documents are admittedly notarized and it is well settled that such documents do not create any title in respect of an immovable property. While defendant has placed on record copy of receipt of new electricity meter in his name in respect of suit property, not a single document i.e. electricity bill, water/ telephone bill, house tax receipt etc. is placed on record by the plaintiff to show her

possession in the suit property except 3 photographs which otherwise do not clearly indicate that they have been taken inside the suit property. Thus, plaintiff is unable to show prima facie case in her favour and against the defendant.

9. The defendant, vide his written statement, raised cloud over the plaintiff's title and also claimed possession in the suit property. Thus, in terms of law laid down in the case of *Anathula Sudhakar v. P. Buchi Reddy(Dead) by Lrs & Ors.*, (2008) 4 SCC 594, a mere suit of permanent injunction, as filed by the plaintiff is not maintainable, being hit by Section 41(h) of The Specific relief Act, 1963. As such, balance of convenience is also in favour of defendant and against the plaintiff. The plaintiff has further failed to justify how an irreparable injury, which cannot be compensated in terms of money, would be caused to her if no injunction is granted.

10. Keeping in view the facts, circumstances of the case and observations as above, the application under Order 39 Rule 1 and 2 CPC is hereby dismissed. It is made clear that nothing mentioned herein shall tantamount to an expression on the merits of the case.

Application is accordingly disposed of.

**ANNOUNCED THROUGH VIDEO
CONFERENCING ON 15.07.2020**

**(AKASH JAIN)
ACJ/CCJ/ARC
(WEST)/THC/DELHI**