

Sh.Anil Kumar Dabas Vs. Sh.Khazan and ors

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Court : Delhi

Decided On : Oct-29-2014

Judge : Valmiki J. Mehta

Appellant : Sh.Anil Kumar Dabas

Respondent : Sh.Khazan and ors

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI C.M.(M) No.239/2011 & C.M.No.4409/2011 (Stay) 29th October, 2014 % SH.ANIL KUMAR DABAS Through Petitioner None versus SH.KHAZAN & ORS Through Respondents Ms.Shobhana Takiar, Advocate for R4/DDA. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. This petition under Article 227 of the Constitution of India impugns the orders passed by the trial court on 11.1.2011 and 29.1.2011 by which only an injunction order was passed in favour of the petitioner/plaintiff restraining the respondent no.1/defendant no.1 from creating any third party interest in the suit property being plot no.88, Pocket No.10, Block No.B, Sector 23, Dwarka, New Delhi admeasuring 80 sq. yds. and petitioner/plaintiff was not successful in getting a direction for the DDA to deposit the original title deeds of the suit property in the Court. The subject suit is a suit for specific performance.

2. On behalf of the petitioner/plaintiff, it was argued that since the petitioner/plaintiff has deposited the entire sale consideration with the DDA/respondent no.4/defendant no.4, if the title documents are executed in favour of the respondent no.1/defendant no.1 by the defendant no.4/DDA, and these title documents are handed over to the defendant no.1/respondent no.1 by the defendant no.4/DDA, grave prejudice will be caused to the petitioner/plaintiff in the suit for specific performance because there is a chance of misuse of the title documents by the defendant no.1/respondent no.1 who is acting illegally and unfairly in refusing to execute the sale deed of the suit property in favour of the petitioner/plaintiff.

3. I may note that impugned orders were passed at the stage when the suit was at the stage of service of the defendants i.e injunction application filed by the petitioner/plaintiff was still pending.

4. In this petition, a learned Single Judge of this Court on 04.2.2013 had directed the parties to maintain status quo with respect to the execution of the documents, and which interim order is still continuing.

5. Considering the facts and circumstances of the present case where the petitioner/plaintiff claims to have deposited the entire sale consideration with the respondent no.4/defendant no.4/DDA, and the petitioner/plaintiff has with him the original allotment letter of the suit property as pleaded in the plaint, the interim order passed by a learned Single Judge of this Court on 04.2.2013 is confirmed, and the same will operate till the disposal of the injunction application filed by the petitioner/plaintiff in the suit for specific performance.

6. Of course, I hasten to clarify that I have not observed in one way or the other on the merits of the application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure, 1908 (CPC) filed by the petitioner/plaintiff and the same will be disposed of by the trial court in accordance with law.

7. The petition is accordingly allowed and disposed of in terms of the aforesaid observations. VALMIKI J.

MEHTA, J OCTOBER29 2014 KA

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