Amit Passi vs.k K Passi & Ors

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SooperKanoon Citation : sooperkanoon.com/1212043

Court : Delhi

Decided On : Jan-16-2018

Appellant : Amit Passi

Respondent : K K Passi & Ors

Judgement :

$~8 * + IN THE HIGH COURT OF DELHI AT NEW DELHI CS(OS) 2740/2015 AMIT PASSI ..... Plaintiff Through Mr.Manav Gupta with Ms.Esha versus Dutta and Mr.Sahil Garg, Advocates. K K PASSI & ORS ..... Defendants Through Mr.Sarfaraz Ahmad, Advocate for D-2 to 4 and LRs of D-1. Mr.Siddhartha Jain Advocate for applicant-Anil Rajput. Ms.Mohini Narain with Mr.Rajat Gava, Ms.Jayati Parasher and Mr.Rajan Narain, Advocates for applicant in I.A.No.640/2018. Mr.Anil K.Kher, Sr.Advocate with Ms.Namita Sharma, Advocate for applicants. Date of Decision:

16. h January, 2018 % CORAM: HON'BLE MR. JUSTICE MANMOHAN

JUDGMENT
MANMOHAN, J: (ORAL) I.A.No.640/2018 1. Today Ms. Mohini Narain, Advocate appears for the applicant- Ms.Rashmi Dutt. Consequently, Mr. V. K. Tandon, Advocate, is discharged. CS(OS) 2740 of 2015 Page 1 of 5 2. Present application has been filed by Ms. Rashmi Dutt seeking a direction to DDA to revoke the mutation and conversion to freehold of the property bearing no.B-2/20, Vasant Vihar, New Delhi on the ground that it has been obtained by submitting fraudulent

documents.

3. A perusal of the paper book reveals that on 09th August, 2016, the parties were directed by the learned Predecessor of this Court to locate a purchaser for the aforesaid property.

4. On 16th September, 2016, the applicant-Ms. Rashmi Dutt through counsel stated before this Court that she had no objection to the sale of the properties to the prospective buyers in terms of the previous orders. The applicant only prayed that the sale proceeds be not disbursed till her I.A. 13982/2016 is decided.

5. On 30th August, 2017 upon I.A.No.7602/2017 being filed by plaintiff and defendants, DDA was directed to process the application for mutation and conversion of the suit property.

6. Subsequently, on 11th October, 2017, the applicant- Ms.Rashmi Dutt appeared through a counsel and stated that she was ready and willing to cooperate with the parties in getting the aforesaid property converted from leasehold to freehold. She also stated before Court that she was willing to give any affidavit/undertaking to the said effect.

7. Consequently, this Court on 11th October, 2017 directed her to file an affidavit/undertaking with the Delhi Development Authority within a period of two weeks. Further, as Ms. Rashmi Dutt stated that she had located a purchaser who was willing to pay a higher amount of Rs.34.56 crores for the said property, this Court directed both the bidders to CS(OS) 2740 of 2015 Page 2 of 5 deposit the balance sale consideration within a period of forty-five days with the Registry of this Court.

8. Since the purchaser located by Ms. Rashmi Dutt did not deposit the bid amount of Rs.34.56 crores, this Court vide order dated 19th December, 2017, confirmed the bid in favour of Mr. Anil Rajput for Rs.34 crores. Since locus of Ms. Rashmi Dutt has not been adjudicated upon, this Court by way of the same order directed that the sale deed in favour of Mr. Anil Rajput be executed by the Registrar General or his nominee on behalf of the co-owners of the property.

9. Today this Court is informed that Mr.Anil Rajput had deposited the entire sale consideration of Rs.34 crores with the Registry of this Court and a registered sale deed has been executed in his favour on 08th January, 2018.

10. Learned counsel for plaintiff and defendants state that all the parties have complied with the procedures for mutation and conversion and the decision taken by the DDA is in accordance with law.

11. In rejoinder, learned counsel for applicant-Ms. Rashmi Dutt vehemently disputes the said averment.

12. However, keeping in view the aforesaid facts recorded in contemporaneous orders, it is apparent that Ms.Rashmi Dutt had previously neither any objection to the sale of the property in question nor to the property being converted to freehold. Even in the present application, it has been averred that, Ms. Rashmi Dutt is not against the sale of the aforesaid property and the same has also been mentioned in the application submitted to this Court on 15th September, 2016. CS(OS) 2740 of 2015 Page 3 of 5 13. In the opinion of this Court, even if the version of Ms. Rashmi Dutt is to be believed, then at the highest they are technical defects in conversion, which can be cured if DDA insists upon the same. However, as the purchaser has deposited the entire bid amount of Rs.34 crores in pursuance to binding orders, this Court is of the view that title in his favour cannot be clouded.

14. In any event, in the present proceedings this Court cannot adjudicate upon the decision of DDA to mutate and convert the property to freehold.

15. Consequently, the present application seeking a direction to DDA to revoke the mutation and conversion of the suit property to freehold is dismissed. I.A.No.605/2018 16. Present application has been filed by the Purchaser - Mr.Anil Rajput seeking a direction to the Registrar General of this Court to refund a sum of Rs.10 lakhs deposited by him at the initial stage. He also seeks a direction to the Registrar General of this Court to deposit the TDS i.e. Rs.2,05,43,556/- with the Income Tax Authorities using the PAN/TAN number of the applicant to the credit of the PAN numbers of the co-owners detailed in para 6 of the present application.

17. Issue notice.

18. Learned counsel for the non-applicants accept notice.

19. Keeping in view the fact that the purchaser has deposited the entire sale consideration of Rs.34 crores with the Registry of this Court, this Court is of the view that the applicant is entitled to refund of Rs.10 lakhs deposited by him at the initial stage. Accordingly, the Registrar General CS(OS) 2740 of 2015 Page 4 of 5 of this Court is directed to refund Rs.10 lakhs to the applicant-Mr.Anil Rajput by way of an Account Payee Cheque though counsel.

20. Also keeping in view the statutory mandate incorporated in the Income Tax Act, this Court directs the Registrar General of this Court to deposit the TDS i.e. Rs.2,05,43,556/- with the Income Tax Authorities using the PAN/TAN number of the applicant to the credit of the PAN numbers of the co-owners detailed in para 6 of the present application within a period of two weeks. This Court, however, clarifies that the TDS certificate may be liable for adjustment inter se between the parties after the present suit has been finally adjudicated.

21. With the aforesaid observations and directions, present application stands disposed of. CS(OS) 2740/2015 & I.A.No.13982/2016, 7602/2017, 14009/2017 List on 11th April, 2018. JANUARY16 2018 KA MANMOHAN, J CS(OS) 2740 of 2015 Page 5 of 5