

Maninder Singh Maker and Ors vs.ajit Singh Maker and Ors

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SooperKanoon Citation : sooperkanoon.com/1212548

Court : Delhi

Decided On : Feb-06-2018

Appellant : Maninder Singh Maker and Ors

Respondent : Ajit Singh Maker and Ors

Judgement :

\$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI % Reserved on:

17. h January, 2018 Pronounced on:

06. h February, 2018 + CS(OS) 558/2014 IA Nos.4962/2015, 434/2018, 433/2018, CCP(O) 2/2018, CRL.M.A. 590/2018, 8598/2016 MANINDER SINGH MAKER AND ORS. Plaintiffs Through: Ms.Kajal Chandra, Ms.Divya Puri & Mr.Viren Kapur, Advocates for plaintiff No.1. Mr.Prashant Mehta & Mr.Alok Tripathi, Advocates for plaintiff No.2. versus AJIT SINGH MAKER AND ORS. Defendants Through: Mr.Samrat Nigam, Mr.Sudarshan Rajan & Mr.Arjun Gadhoke, Advocates for defendant no.1. CORAM: HON'BLE MR. JUSTICE YOGESH KHANNA YOGESH KHANNA, J.

IA Nos.15607 and 15608 of 2017 1. These applications are (a) for modification of the order dated 20.11.2017 to an extent to exempt defendant no.1 the applicant herein from depositing an amount of Rs.19.2 crores and (b) grant relief to the defendant no.1 to place on record the additional documents/records.

2. On 20.11.2011 an order was passed directing the defendant no.1 either to deposit in the Court an amount of Rs.19.2 crores or furnish a CS(OS) No.558/2014 Page 1 of 3 bank guarantee to the extent of Rs.19.2 crores with the Registrar General of this Court within four weeks. Such an amount was qua consideration of the sale of trust property.

3. On 21.04.2017 this Court noted the plea of the parties wherein the defendant in reply to IA No.23822/2014 reiterated an amount of Rs.19.2 crores is lying secured in the account of defendants no.1 and 2 though their counsel was not sure if was lying in savings bank account or in the current account of defendants and that such amount is kept alive during the pendency of the suit and will be not spent in the activities of the trust. However the defendant no.1 I did not disclose as to where such amount was lying.

4. I had discussed in my order dated 20.11.2017 the objects of the trust which never gave any power to sell the property as noted in para 9. The manner in which the defendants reframed rules and regulations of the trust giving more power to the trustees, including the power to sell the property of the trust by simple majority (see clause 9 of the amended trust deed) would show the transaction fishy. The power of the trustees in initial trust deed dated 06.03.1978 was limited only to framing rules for the conduct of management of the trust. It was only on considering over all facts viz., defendants being permanent residents of England the defendant no.1 was directed to do the needful.

5. Now the learned counsel for the defendant no.1 intends to place on record additional documents on behalf of defendant no.1 to impress the Court to modify its earlier order. Such documents are photocopies of cheques showing the amount of Rs. 19.2 crores coming in the account of CS(OS) No.558/2014 Page 2 of 3 trust and then being distributed as donations. These documents, even otherwise, are not relevant to decide the controversy, as would only further the arguments of the defendant no.1 the amount has been distributed as donation to various organizations which argument is contrary to their earlier contention viz. the amount of Rs.19.2 crores was kept for purchase of trust property at Ponta Sahib and is kept alive and would not be spent in activities of the trust.

6. Further the defendant no.1 intends to review the order dated 20.11.2017 by filing these documents but could not satisfy such documents if were not available with the trust and why were not filed earlier and why contrary statements to such documents were made. The defendants have not put forward a case of discovery of a new matter or such evidence not within the knowledge of defendant no.1 or could not be produced at the time despite due diligence when the impugned order was made. There is no error apparent on the face of record hence there is no reason to modify it. The applications are dismissed being devoid of merit. CS(OS) 558/2014 IA Nos.4962/2015, 434/2018, 433/2018, CCP(O) 2/2018, CRL.M.A. 590/2018, 8598/2016 List for directions before Roster Bench on 15.02.2018. YOGESH KHANNA, J FEBRUARY06 2018 DU CS(OS) No.558/2014 Page 3 of 3