
(2010) 09 DEL CK 0098

In the Delhi High Court

Case No : Writ Petition (Criminal) 1115 of 2010

Ravi Sood and Another

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 14-09-2010

Acts Referred:

Citation : (2010) 09 DEL CK 0098

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Varun Goswami and Abhishek Bhardwaj, for the Appellant; Sanjeev Bhandari, Additional Standing Counsel for State and Abhinav Vashisht Garima Prashad, Shadab Khan and Nimish Raja, for the Respondent

Final Decision : Allowed

Judgement

Sanjiv Khanna, J.—The petitioner Nos. 1 and 2 Mr. Ravi Sood and Ms. Raj Sood are brother and sister-in-law of respondent No. 4 - Ms. Vimla Sood. Petitioner Nos. 1 and 2 are 85 and 81 years old respectively. Respondent No. 4 states that she is 90 years old and she is present in the Court. The dispute between them relates to first floor of property No. H-3, Green Park (Main), New Delhi (the property, for short). The admitted position is that the petitioners were in occupation of the first floor of the said property since May 2005. This possession is not disputed by the respondent No. 4, who is the owner of the first floor of the property. Respondent No. 4 herself along with her maid respondent No. 5 resides on the ground floor of the said property. The allegation of the petitioners is that the respondent No. 4 is under influence of the respondent No. 5 and has been acting as per her wishes and on her behest.

2. On or about 17th March, 2010, Ms. Sonia Sood, daughter of the petitioners filed a suit for declaration, permanent injunction and recovery against respondent No. 4 in respect of the ground floor of the property. However, in paragraph 8 of this suit she has made specific averment that since 2005 Ms. Sonia Sood's aged natural parents (i.e. the petitioners) have been residing on

the first floor of the property. Written statement to the suit was filed by the respondent No. 4 on 28th May, 2010. In her written statement, respondent No. 4 has stated that she had sent a legal notice dated 9th March, 2010 to the two petitioners for vacating the first floor and handing over possession of the same to the respondent No. 4. This notice is disputed by the two petitioners. In paragraph 5 of this notice it is stated that the respondent No. 4 on account of harassment was no longer interested in letting the two petitioners reside in the premises any further and the permission granted to them to reside in the property stands revoked with immediate effect. Respondent No. 4 also claimed right to peaceful possession and damages. The petitioners thereafter filed a caveat in this Court on 13th July, 2010 in respect of a fresh suit for possession, recovery of damages, mesne profits, etc. of first floor of the property.

3. It is the contention of the petitioners that they left for Mumbai on 1st July, 2010 as the petitioner No. 1 had to be operated for malignant brain tumor and they had given duplicate keys of the first floor to their family friend one Mr. Aftab to clean the house and keep it in a usable condition in their absence. On 11th July, 2010, daughter of the petitioners Ms. Sonia Sood filed a police complaint alleging that respondent No. 5 and her associates were trying to forcibly occupy the first floor. Respondent No. 3 was informed that the petitioners were likely to come back to Delhi in August 2010 after surgery of the petitioner No. 1. It is alleged that on 26th July, 2010 when Mr. Aftab and his wife were cleaning the first floor, respondent No. 3, Mr. Avtar Singh Rawat, SHO Police Station Safdarjung Enclave came to the property.

4. The petitioners have alleged that on 28th July, 2010 they came to know that new pad locks have been clamped on the first floor of the property. The petitioners tried to get in touch with the respondent No. 3 on his cell phone from Mumbai, who assured that the first floor was safe and secure and nobody would be allowed to enter the same. The petitioners made complaints to police officers and other officers while they were in Mumbai. On 29th July, 2010, the petitioners again contacted respondent No. 3. It is, however, alleged that the respondent No. 3 has actively assisted and helped the respondent Nos. 4 and 5 in ensuring that the petitioners were not able to enter the first floor. The petitioners claim that on 30th July, 2010 they came from Mumbai to Delhi but respondent Nos. 4 and 5 and some of the associates of the respondent No. 5 did not allow the petitioners to enter the premises and they were intimidated and threatened. Respondent No. 3, it is alleged reached the spot but instead of helping the petitioners started pressuring them to give up their claim for possession and even money was offered to the petitioners if they gave up their claim. It is further alleged that since 31st July, 2010, the petitioners have not been allowed to enter the first floor.

5. Respondent Nos. 1, 2 and 3 have filed status report. The said status report has been placed on record in Writ Petition (Criminal) No. 1108/2010 and has been directed to be kept in Writ Petition (Criminal) No. 1115/2010. In the status

report, Delhi Police has supported the petitioners. It is stated that on 30th July, 2010 when the petitioner No. 1 came back from Mumbai he was not allowed to enter the first floor by the respondent Nos. 4 and 5 Vimla Sood and her maid Narinder Kaur. Thereafter, petitioner No. 1 made a call to the PCR but the respondent Nos. 4 and 5 did not allow the petitioners to enter the first floor. Now the property is locked by both the parties as per the status report. It is further stated that the ground floor is occupied by the respondent Nos. 4 and 5.

6. Respondent No. 4 in her reply has stated that on 15th June, 2010 the petitioners themselves vacated the first floor of the property in the presence of the neighbourhood after selling/disposing of their entire household goods and valuables including TV, Fridge, Wagon R car, inverter, submersible pump, beds, paintings, etc. She has relied upon the alleged letter dated 2nd September, 2010 which is purportedly signed by four persons. It is stated that they are immediate neighbours. The said letter records that the petitioners used to reside in the first floor of the property and in the month of June they disposed of their household articles and vacated the first floor and left the place on 15th June, 2010. It is apparent that the said letter has been carefully drafted. It is nowhere stated in the said letter that possession of the first floor was handed over and given by the petitioners to the respondent Nos. 4 and 5. Respondent Nos. 4 and 5 do not have any receipt or any document executed by the petitioners for handing over and giving possession of the first floor to them. Learned senior Counsel appearing for the respondent No. 4 has admitted that she does not have any document or possession letter with her to show that she was given and handed over vacant possession of the first floor.

7. Along with the reply, respondent No. 4 has filed document dated 16th June, 2010 written by respondent No. 4 to the Gurudwara Sikh Sangat South Delhi stating that she has made a Will bequeathing the ground floor and the first floor to the Gurudwara to be used as an old age home and for other charitable purposes. She has further expressed her wish that the first floor should be utilized for charitable purposes. Respondent No. 4 has also enclosed letter dated 18th June, 2010 written by Gurudwara Sikh Sangat South Delhi that the request made by the respondent No. 4 in her letter dated 16th June, 2010 had been accepted and an announcement would be made in the Gurudwara.

8. The haste and hurry to which these letters have been written also create grave doubts about the conduct of the respondent Nos. 4 and 5. The entire facts with day to day happening have been narrated above. It is admitted that respondent No. 4 has been involved in litigation with the daughter of the petitioners since March 2010. This litigation is with regard to the ground floor. Respondent No. 4 in her written statement has admitted possession of the petitioners in respect of the first floor. It is not possible to accept the contention of respondent No. 4 that she was given vacant physical possession of the first floor without any written document or receipt by the petitioners. The conduct of the respondent No. 4 in taking possession of the property is contrary to law and

cannot be condoned. However, keeping in view her old age, no further action is being directed. Petitioners will be permitted and allowed to use and occupy the first floor of the property. Their daughter Ms. Sonia Sood in view of the acrimony and disputes with the respondent No. 4 and keeping in view the old age of the respondent No. 4, will not reside and occupy the first floor. It is open to the respondent No. 4 to ask the present occupants of the property, if any, to vacate the same. In case they do not vacate within ten days, the petitioners will be given police aid to throw out the present occupants of the property. It will be open to the respondent No. 4 to initiate legal proceedings in accordance with law to dispossess or ask the petitioners to vacate the property. The petitioners will be equally entitled to defend the said proceedings and take all pleas. The police will also ensure that the petitioners are not harassed or troubled in case they occupy the property. Similarly, the respondent No. 4 should not be harassed or troubled.

The petition is disposed of.