
(1999) 11 DEL CK 0076

In the Delhi High Court

Case No : Suit No. 799/98 and IAS. 5636, 5641/98

Sadhna Bhatnagar

APPELLANT

Vs

Shree Sita Ram Bhandar Society

RESPONDENT

Date of Decision : 12-11-1999

Acts Referred:

Citation : (2000) 1 AD 905 : (2000) 83 DLT 168 : (2000) 52 DRJ 285

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. N.N. Aggarwal, for the Appellant; Mr. J.M. Bari Advocate, for the Respondent

Judgement

Manmohan Sarin, J.—This is a suit for perpetual injunction filed by the plaintiff seeking injunction to restrain the defendants from interfering in the possession, enjoyment of the right of construction of the plaintiff in respect of plot No. 243, measuring 186.67. sq. yds., the land allotted to Dayanand Cooperative House Building Society Ltd.

2. The plaintiff's case is that she is the absolute owner of the property and of the plot and has been granted perpetual lease in her favor by the Delhi Development Authority. The plaintiff on the basis of building plans sanctioned by the Delhi Development Authority sought to raise constructions thereon.

3. The defendants 1 to 3 on 10.4.1998 came to the site with 10 persons and told the plaintiff not to carry out construction until she paid Rs. 1 lacs to the defendants. The plaintiffs stopped the construction. The defendants 1 to 3 it is alleged indulge in these illegal tactics and extort money. The plaintiff did not get any help from the police to women she complaint. The plaintiff was thus constraint to file the present suit. By an ex-parte order passed on 22.4.1998 defendants were restrained from interfering in any manner in the possession and right of construction of the plaintiff in the suit property. vide order dated 28.5.1998. Construction , if any, carried out was made subject to the final order

of this Court.

4. Written statement has been filed by defendant No. 1. Defendant 2 to 4 have failed to file the written statement and their right to file written statement was closed on 14.10.1998. Parties have also filed their documents. The case was listed for framing of issues and disposal of interim applications.

5. Counsel for the plaintiff submitted that defendant No. 1 does not question that DDA has granted a perpetual lease in favor of the plaintiff and the factum of the plaintiff being in possession. Learned counsel, Therefore, submitted that the suit itself can be disposed of as he confines his prayer to grant of injunction, restraining defendants 1 to 3 from dispossessing the plaintiff without the due process of law and a restraint against interfering or obstructing construction activity of the plaintiff otherwise than in accordance with law. He states that plaintiff shall not claim any special equities in relation to the construction activity.

6. Learned counsel for the defendant, Mr. Bari, contends that the perpetual lease has been granted to the plaintiff in an illegal manner and despite the pending challenge to the acquisition of the land by DDA and there being a restraint order staying dispossession of defendant. He submits that the perpetual sub-lease does not confer any valid title on the plaintiff and the plaintiff concealed the pending litigation concerning the property. It is submitted that construction by the plaintiff is in contravention of the orders passed. Learned counsel for the defendants states that defendants do not propose to take the law in their own hands and forcibly dispossess the plaintiff or to interfere with the construction otherwise than by lawful means. This statement of learned counsel on behalf of the defendants is accepted. The defendants shall be bound by the aforesaid statement of their counsel.

7. In these circumstances, the suit is disposed of with the direction that the defendants shall not dispossess the plaintiff from plot No. 243 measuring 186.67 sq. yards, situated in Dayanand Vihar of the Dayanand Cooperative House Building Society, without due process of law and shall not interfere with the construction carried out or to be carried out, except through lawful means.

8. It is made clear that the disposal of this suit in the above terms shall not affect the other pending litigation in relation to the suit property. plaintiff shall also not be entitled to any special equities in relation to the construction carried out or to be carried out and the same shall be adjudged on its own merits.