

(2013) 04 DEL CK 0257

In the Delhi High Court

Case No : I.A. No. 1538 of 2013 and CS. (OS) 2818 of 1989

Sh. Chet Ram Gupta

APPELLANT

Vs

Smt. Motia Devi Lamba

RESPONDENT

Date of Decision : 22-04-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

Citation : (2013) 04 DEL CK 0257

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Ashok Gurnani and Mr. S.K. Chaturvedi, for the Appellant; P. Choudhary, Advocate for D-1, Ms. Paramjeet Kaur, Advocate for Mr. S.K. Shukla, Advocate, Mr. Ashok Bhasin and Ms. Nandni Sahni, Advocate for Defendant Nos. 2, 3 and 4 and Mr. N.S. Dalal, Advocate in IA. No. 1 9229/2011, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Bhasin, J.—In this suit for specific performance of an agreement to sell in respect of one plot in Greater Kailash-II, New Delhi filed by the deceased plaintiff Chet Ram, against the owner of the said plot Smt. Motian Devi and some other persons who were claiming that the suit plot had been in fact gifted to them by Smt. Motian Devi, the legal heirs of the deceased plaintiff have filed the present application under Order I Rule 10 CPC for impleadment of one Smt. Anju Malhan to whom the defendant No. 1 Smt. Motian Devi has allegedly sold the suit plot by executing a registered sale deed in her favour during the pendency of the suit and in utter violation of the injunction order which this Court had passed in favour of the deceased plaintiff restraining her from creating any kind of third party interest in the suit plot. In my view, unless and until the legal heirs of the deceased plaintiff seek to challenge the transaction of sale which, according to them, has been entered into between defendant No. 1 and Smt. Anju Malhan they cannot seek her impleadment in the present suit. Her mere impleadment in the present suit will not serve any purpose in the adjudication of controversy

between the parties unless the sale deed allegedly executed by defendant No. 1 in favour of Smt. Anju Malhan is got set aside either on the ground that defendant No. 1 could not have executed the same in favour of Anju Malhan in view of the fact that she had already agreed to sell the suit plot to late Sh. Chet Ram Gupta or that the same had no legal sanctity because of having been executed by defendant No. 1 in violation of the restrain order passed by this Court in the present suit way back in the year 1989. It appears that the present application has been filed by the legal heirs of the deceased plaintiff to simply delay the final disposal of the suit since he has got an ex parte injunction in his favour whereby the defendants had been restrained from dispossessing him from the suit plot and also considering the fact that there are other claimants as well claiming title over the suit plot and the legal heirs do not want their case to be considered on merits.

This application is, therefore, dismissed.