

(2018) 10 DEL CK 0591
In the Delhi High Court
Case No : Civil Suits(Os) 227 Of 2017

Smt. Swarn Kapoor & Anr	Vs	APPELLANT
Shri Manpreet Singh & Ors		RESPONDENT

Date of Decision : 25-10-2018

Acts Referred:

Citation : (2018) 10 DEL CK 0591

Hon'ble Judges : Jayant Nath, J

Bench : Single Bench

Advocate : Shikha Sapra

Final Decision : Disposed Off

Judgement

Jayant Nath, J

1. This suit is filed to declare that the plaintiff is a lawful owner in possession of the property measuring 72 sq. yards, bearing no. 18/241, Malviya

Nagar, New Delhi-110012 (herein referred to as "the said property"), for cancellation of documents mentioned in prayer (b) and (e) of the plaint

as null and void executed by the plaintiff in favour of defendant Nos.1 and 2 with respect to the said property. Other consequential reliefs are also sought.

2. A perusal of the plaint would show that the said property was purchased by Smt. Gian Devi (i.e. Mother of Plaintiff No. 1) from Sh. Ajit Singh, vide

a registered sale deed dated 08.09.1986. As per the plaint, the suit property was leased out to Sh.Sunder Singh by the President of India vide

registered perpetual lease deed dated 13.08.1989. On the death of Sh.Sunder Singh, the same was inherited by his son Sh.Ajit Singh. The suit property

was mutated in favour of Sh.Ajit Singh in 1984. Thereafter, Smt.Gian Devi,

mother of plaintiff No.1, purchased the suit property from Sh.Ajit Singh vide registered sale deed dated 08.09.1986.

3. It is pleaded in the plaint that Smt. Gian Devi expired on 29.05.1995. During her lifetime, she executed a will dated 07.12.1987 whereby plaintiff no.

1 inherited the said property. The said property was converted from leasehold to freehold by way of conveyance deed dated 13.07.1999.

4. Disputes arose on 30.01.2016 when the plaintiff came to know that a sale notice was published in the newspaper "Hindustan Times" for the said property. As per the notice, defendants no. 1 and 2 were shown to be the owners of the said property.

5. On inquiry it came to light that defendant Nos.1 and 2 have fabricated false and bogus sale deed dated 10.01.2013 in respect of the suit property.

They declared plaintiff No.1 as dead and fabricated a death certificate. In fact, further inquiry revealed that various forged and fabricated documents

which have been prepared by defendant Nos.1 and 2 are as follows:

i) Forged and alleged Will of plaintiff No.1 dated 03.05.2000 in favour defendant Nos.1 and 2.

ii) Forged a death certificate dated 07.11.2013 declaring death of plaintiff No.1.

6. On further inquiry by plaintiff no.1, it was revealed that based on the aforesaid documents defendants no. 1 and 2 had fabricated a substitution letter

dated 25.08.2014 and a corrigendum dated 25.09.2014 from the Land and Development Office, Govt. of India in their favour and have illegally got the

leasehold rights of the said property. Defendants no. 1 and 2, as general power of attorney of plaintiff no. 1, fabricated a bogus sale deed dated

12.01.2016 with respect to the said property and got it registered where defendants no. 3 and 4 has witnessed the said sale deed.

7. Notice was issued to the defendants on 10.02.2016, but no reply has been received till date. It is also pertinent to mention that a publication was also

carried on 15.02.2016, whereby the sale notice of the said property published on 30.01.2016, was withdrawn. No steps were taken for cancellation

and declaring null and void the above mentioned documents by defendant no.1 and 2.

8. Hence, this present suit is filed by the plaintiffs against the defendants.

9. Notice to the said suit was served on defendant no.3 by this court on 14.09.2017. On 24.05.2018, this court was pleased to delete defendant no. 3

from the array of parties to the suit. Notices to defendantsâ?? no. 1, 2, 4 and 5 were served though publication but none has appeared. The said

defendants were proceeded ex-parte by this court on 24.07.2018. Evidence was led by the plaintiffs.

10. I have heard the learned counsel for the plaintiffs and have also examined the contents of the plaint and the documents placed on record.

11. Plaintiff No. 1 has led her own evidence by way of affidavit as PW 1 only. She has affirmed the contents of the plaint. She has further that she is

the absolute and exclusive owner and in possession of the freehold property measuring 72 sq. yards. by virtue of inheritance from her mother Late

Smt. Gian Devi through a registered will dated 07.12.1987. The same is marked and exhibited as Ex. PW 1/1. She further states that she is in

possession of the registered sale deed executed between Late Smt. Gian Devi and one Sh. Ajit Singh, registered vide documents no. 7546, additional

book No.1, Volume No. 5597 with the Sub-Registrar, New Delhi. The same is marked and exhibited as Ex. PW1/2. She is also in full possession of

the Mutation letters, issued by Govt. of India dated 27.09.1984, 08.01.1987 and 11.03.2005 to Sh. Ajit Singh, to plaintiff no.1â??s mother (i.e. Smt.

Gian Devi) and plaintiff no.1 with respect to the said property. The same are marked and exhibited as Ex. PW 1/3, 1/5 and 1/8. It is stated that

plaintiff no. 1 is also holding a freehold conveyance deed dated 05.11.1999 in her favour with respect to the suit property. The same is marked and

exhibited as Ex. PW1/7. It is further stated that the plaintiff no.1 is also in possession of Property Tax receipts dated 16.06.2016, 03.06.2015,

13.05.2013, 01.10.2012, 08.04.2011 and 08.06.2010 with respect to the said property issued by MCD Department, Delhi in favour of Plaintiff No. 1.

Newspaper clipping dated 30.01.2016, showing the sale notice by Defendant No. 1 and 2 is marked and exhibited as Ex. PW 1/10. Various other

documents supporting PW1 evidence are marked as Ex. PW 1/11 to Ex. PW 1/12.

12. Evidence on record shows that the suit property was originally owned by the mother of plaintiff No.1 Smt.Gian Devi. Plaintiff No.1 has inherited

the suit property vide Will dated 07.12.1987. Plaintiffs are also in possession of the suit property. The suit property was also converted to freehold vide

conveyance deed dated 05.11.1999. It is clear that plaintiff No.1 is the owner of the suit property. Subsequent documents which appears to have been

relied upon by defendant Nos.1 and 2 are based on a claim that plaintiff No.1 had died. The plaintiffs are also denied the execution of this document.

It is clear that there is no impediment to passing a decree declaring plaintiff No.1 is lawful owner of the property.

13. Accordingly, the suit is allowed and a decree is passed in favour of plaintiff No.1 and against the defendants declaring plaintiff No.1 as law owner

of the suit property bearing No.18/241, Malviya Nagar, New Delhi-110017. A decree is passed cancelling the General Power of Attorney dated

03.05.2000 purported to have been executed by plaintiff No.1 in favour of defendant Nos.1 and 2. Defendant Nos.1 and 2 are restrained from

claiming right, title and interest in the suit property. A decree is also passed in favour of the plaintiffs and against the defendants cancelling the

mortgage deed alleged to have been executed by plaintiff No.1 in favour of defendant No.1 and 2; cancelling the purported death certificate of

plaintiff No.1; and the Will of plaintiff No.03.05.2000. The plaintiffs shall also be entitled to costs.

14. Accordingly, the suit and all pending applications, if any, stand disposed of.