

CS DJ 422/19

Kamlesh Sharma Vs Sunil Bhardwaj & Ors

03.01.2024

Present: Mr. Ashish Sharma, Ld. Counsel for plaintiff with
plaintiff.

Mr. M. K. Kaushik, Ld. Counsel for defendants.

Submissions on the application under Order 39 rule 1
and 2 CPC are heard.

As per case file, the plaintiff has filed the present suit seeking possession of property bearing no. C-61, Harshdev Park, Budh Vihar, Phase II, Delhi claiming herself as its absolute owner. The contention of the plaintiff is that the property was in the name of her mother and thereafter as she looked after, cared and maintained her mother and due to said love and affection, she transferred the property in favour of plaintiff. It is alleged that the defendants who are brothers of the plaintiff did not take care their mother rather become disrespectful and careless towards her. It is the contention of the plaintiff that the property was transferred in her name vide title deed executed on 23.05.2008 and that mother had expired on 20.06.2018.

On the basis of pleadings of parties, issues were settled by the court on 14.07.2022 and plaintiff was asked to lead the evidence. The issue regarding the ownership rights of the property has been framed and the plaintiff in place of leading the evidence, has filed the present application seeking injunction thereby restraining the defendants, their legal heirs, attorney, agents, legal representatives, successors and assignees from doing

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illegal construction, alienating, selling and creating third party interest in the suit property.

The documents of the ownership filed by the plaintiff are agreement to sell, affidavit of her mother, possession letter. The plaintiff is relying upon that the father of the plaintiff was the owner of suit property and he executed registered GPA and registered Will qua the suit property in favour of his wife, mother of the plaintiff. Neither in the GPA nor in the Will executed by Sh. Lakhpat Ram Sharma, the manner how he is having ownership rights in plot no. C-61 is mentioned. The documents being placed on file qua the ownership rights of the plaintiff over the suit property are not recognized documents of the ownership of immovable property having value more than Rs. 100/-. Thus, the plaintiff is not able to show any rights qua her ownership in the suit property, at this stage, so she is not having prima facie case in her favour. Considering that one of the main ingredient to be considered by the court at the time of interim injunction is not in favour of plaintiff, thus, she is not entitled for the relief claimed in the application. Application is dismissed accordingly. Needless to say that nothing stated herein shall tantamount an expression of opinion on the merits of the case.

Put up for plaintiff evidence on **04.04.2024**.

(SUNIL CHAUDHARY)
ADJ-04/North-West
RHC/Delhi 03.01.2024