

Satpal Vs. Kiran Gupta & Ors.

20/06/2020

Pr: None.

Arguments are already heard on the point of interim stay as prayed by the plaintiff through video conferencing.

As per the material available on record in the soft copy, plaintiff is a senior citizen who sold out the property bearing no. H-19/162, Sector-7, Rohini, Delhi-110085 to defendants no. 1 and 2 who are wife and husband respectively while defendant no. 3 is the property dealer, for the consideration amount of Rs. 91,00,000/- and defendants no. 1 and 2 simultaneously took a loan of Rs. 10,00,000/- from plaintiff. A Sale Deed alongwith a Loan Agreement and Mortgage Deed were executed between the parties in respect of the transactions, the copy of which is also annexed for reference.

Ld. Counsel pointed out during the arguments that according to the terms of the loan agreement, defendants no. 1 and 2 cannot create any third party interest in the property in question unless full and final payment, payable to the plaintiff is done by these defendants but in sheer disregard of the said agreement, defendants are trying to create third party interest without following the terms of the said loan agreement. The plaintiff is accordingly praying for an ad-interim stay against the defendants.

After going through the plaint and documents, it is revealed that the terms of the loan agreement prevent the defendants no. 1 and 2 from creating third party interest. Hence, a prima facie case is made out in favour of plaintiff and against the defendants no. 1 and 2.

In view of the foregoing discussion an ad-interim order is hereby passed in favour of plaintiff and against defendants no. 1 and 2. Whereby they are restrained from creating any third party interest in the property in question bearing no. H-19/162, Sector-7, Rohini, Delhi-110085 till the next date of hearing. **It is hereby clarified that the present order shall be effective only after compliance of provisions of Order 39 rule 3 CPC.**

Plaintiff is also directed to serve the defendants with a copy of plaint alongwith all the annexures/photographs etc. through e-mail.

Put up for further proceedings on 25/06/2020.

Reader of the court of the undersigned is directed to upload this order on the official website.

Niyay Bindu  
SCJ-Cum-RC/North West  
Rohini/Delhi /20/06/2020