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(2001) 01 DEL CK 0122

Delhi High Court

Case No: Civil Revision No. 459 of 2000 and CM 1261 of 2000

Shambhuji	APPELLANT
Vs	
Adityanjee and Others	RESPONDENT

Date of Decision: Jan. 17, 2001

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 10

Citation: (2001) 5 AD 56 : (2001) 90 DLT 321

Hon'ble Judges: S.K. Mahajan, J

Bench: Single Bench

Advocate: D.R. Roy, for the Appellant; Party in person, for the Respondent

Judgement

S.K. Mahajan, J.
Admit.

The matter has been heard with the consent of the parties and is being disposed of finally.

2. The plaintiffs who are respondent Nos. 1 and 2 in the present petition filed a suit for injunction against the defendants on the allegations that property in suit was the self-acquired property of late Mr. O.P. Kulshreshtha and on his death, the property has been inherited by the parties to the suit. It was further alleged that defendants 1 to 3 were intending to grab the entire property left by late Mr. O.P. Kulshreshtha and were not only trying to forcefully dispossess the plaintiff and their family members from the premises in suit but they were also threatening to raise construction in the suit property so as to deprive the plaintiffs of their legitimate share in the property.

3. Prior to the filing of the suit by the plaintiffs, the defendants including the petitioner in the present petition had filed certain suits against the plaintiffs/respondents 1 and 2 and an application was, Therefore, filed by the

petitioner in this suit in the Trial Court u/s 10 of the CPC contending inter alias that matter in issue in the suit filed by the defendants, including the petitioner, and the suit filed by plaintiffs/respondents 1 and 2 was directly and substantially the same and as such the proceedings in the suit should be stayed. This application was contested by the plaintiffs. The learned Trial Court by the impugned order dated 4.2.2000 held that the matter in present suit and the other suits were totally different and the principles of Section 10 of the CPC were, accordingly, not applicable to the facts and circumstances of the case. The application of the petitioner was, Therefore, dismissed. Being aggrieved by the order of the Trial Court the present revision petition has been filed by the petitioner.

4. When the matter was being heard today it was admitted by learned Counsel for the petitioner that the question as to whether or not the respondents 1 and 2 and the mother of respondent No. 2 had a share in the property in question was yet to be decided by the Courts in which the suits filed by the petitioner were pending. It is also admitted by him that the question as to whether or not the petitioner was the Karta of the HUF which is alleged to be the owner of the property is also to be decided by the Courts. Learned Counsel, Therefore, states that till such time these questions are decided by the Court, the defendants including the petitioner will not interfere with the possession of respondents 1 and 2 in the suit premises nor will the defendants including the petitioner raise any construction in the suit property without the permission of the Court. Respondent No. 2 who is present in person for himself as well as in the capacity of Attorney of respondent No. 1 is agreeable that in case their possession is not disturbed and the petitioner does not carry out any construction till the suit is finally decided he will have no objection to the suit being stayed till the matter is decided in other suits.

5. In view of the submissions made by the parties, I dispose of this petition with a direction that till the disposal of the suits mentioned in the application of the petitioner u/s 10 of the CPC, the defendants including the petitioner will not disturb the possession of the respondents 1 and 2 in the premises in suit and they will also not carry out any additions, alterations or fresh construction without prior permission of the Court and till such time the other suits are decided the present suit shall remain stayed. In the circumstances of this case, the parties are left to bear their own costs.

6. Petition disposed of.