



2025:DHC:7849-DB



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment reserved on: 29.08.2025

Judgment pronounced on: 10.09.2025

+ RFA(OS) 117/2015, CM APPL. 16630/2017, CM APPL. 7931/2018 & CM APPL. 59791/2023

ANUJ CHOPRA & ORSAppellants

Through: Mr. Anil Sapra, Sr. Adv. with
Mr. Gaurav Mitra, Mr. Kartik
Nagarkatti, Mr. Sanidhya
Kumar, Ms. Khushi, Mr.
Rakshit Das, Ms. Lavanya
Pathak, Advs.

versus

VANEETA KHANNA & ORSRespondents

Through: Mr. Sandeep Thukral, Ms. Sana
Thukral, Advs. with R-1 in-
person

+ RFA(OS) 21/2016 & CM APPL. 7932/2018

RAJEEV GUPTAAppellant

Through: Mr. Assem Malhotra, Adv.

versus

VANEETA KHANNA & ORSRespondents

Through: Mr. Sandeep Thukral, Ms. Sana
Thukral, Advs. with R-1 in-
person
Mr. Rishi Manchanda, Mr.
Lakhan Gupta, Advs. for R-3 &
4

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**



J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeals filed under Section 96 of the Code of Civil Procedure, 1908 [hereinafter referred to as ‘CPC’] read with Section 10(1) of the Delhi High Court Act, 1966, the Appellants assail the correctness of common judgment dated 01.10.2015 [hereinafter referred to as ‘Impugned Judgment’] passed by the learned Single Judge.

2. With the consent of learned counsel for the parties, both Appeals are heard together and are being disposed of by this common judgment.

Brief Factual Matrix:

3. In order to comprehend the issues involved in the present case, the relevant facts in brief are required to be noticed. Late Sh. Lakhi Ram Gupta [hereinafter referred to as ‘Sh. L.R. Gupta’] acquired the property admeasuring 267 sq. yds., bearing No. 8/289, Sunder Vihar, Paschim Vihar, Delhi [hereinafter referred to as the ‘Suit Property’], *vide* perpetual Lease Deed dated 28.07.1977. Thereafter, late Sh. L.R. Gupta passed away intestate, leaving behind the following Class-I legal heirs:

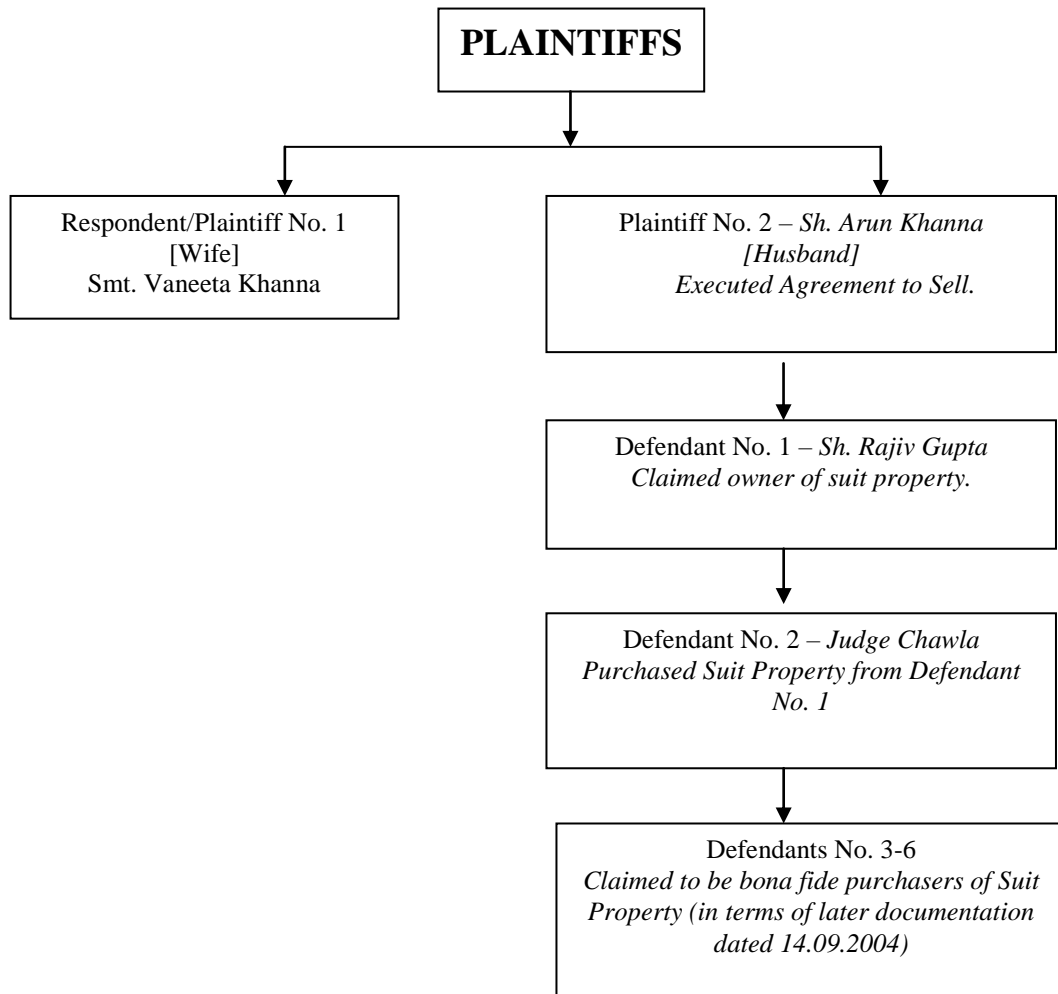
- i. Smt. Basanti Gupta, wife of Sh. L.R. Gupta;
- ii. Sh. Rajiv Gupta, son of Sh. L.R. Gupta - Respondent No.3 in RFA(OS) 117/2015 and Appellant in RFA(OS) 21/2016 [hereinafter referred to as ‘Sh. Rajiv’];



iii. Smt. Usha Sharma, daughter of Sh. L.R. Gupta [hereinafter referred to as ‘Smt. Usha’]; and

iv. Smt. Anita Ranjan, daughter of Sh. L.R. Gupta [hereinafter referred to as ‘Smt. Anita’].

4. In order to understand the *inter-se* relationship between the parties, it is appropriate to draw a small pedigree table on the basis of the suit filed by the Respondents herein:





5. Smt. Basanti Gupta, wife of Sh. L.R. Gupta, died intestate on 09.10.1991. Thus, the property was inherited by Sh. Rajiv, Smt. Usha, and Smt. Amita in equal shares. Though Smt. Usha and Smt. Anita filed a suit for partition bearing Suit No. 1961/2000 before this Court, in which an order of *status quo* was passed but thereafter both Smt. Usha and Smt. Anita relinquished their shares in favour of their brother, Sh. Rajiv, on 03.09.2004, and the suit for partition filed by them was accordingly disposed of. During the pendency of the suit for partition, Sh. Rajiv executed a set of documents in favour of Sh. Judge Chawla [hereinafter referred to as 'Judge Chawla'], including a registered General Power of Attorney ('GPA') and an Agreement to Sell ('ATS') on 12.05.2004. On the strength of the registered GPA, Judge Chawla executed a set of documents, including GPA in favour of Arun Khanna and ATS, registered Will, possession letter, receipt, and affidavit, in favour of Smt. Vaneeta Khanna - Respondent No. 1 [hereinafter referred to as 'Smt. Vaneeta']. On the strength of the said GPA, Sh. Arun executed a registered ATS in favour of his wife, Smt. Vaneeta, on 16.06.2004.

6. On the other hand, Sh. Rajiv executed a registered GPA and a registered Will on 22.03.2004 with respect to the Suit Property in favour of Sh. Anuj Chopra [hereinafter referred to as 'Sh. Anuj']. On 19.08.2004, Sh. Rajiv revoked the said GPA given in favour of Judge Chawla. Subsequently, Sh. Rajiv Gupta executed a registered ATS in favour of Sh. Anuj, Smt. Sushma Chopra, and Sh. S.S. Chopra. Judge Chawla also cancelled the GPA executed by him in favour of Sh. Arun. Thereafter, Smt. Vaneeta and Sh. Arun filed a civil suit bearing



CS(OS) 393/2004 under Sections 5 and 6 of the Specific Relief Act, 1963 [hereinafter referred to as 'SRA'] before the District Court, Delhi, seeking various reliefs, including restoration of possession and specific performance of the ATS. The said suit, as filed by Smt. Vaneeta and Sh. Arun, was dismissed by the learned Additional District Judge in exercise of powers under Order VII Rule 11 of the CPC. A Regular First Appeal [hereinafter referred to as 'RFA'] was thereafter filed by them, which was also dismissed on 02.03.2006. However, the Supreme Court, in a Special Leave Petition [hereinafter referred to as 'SLP'] bearing No. 6902/2006, permitted Smt. Vaneeta and Sh. Arun to file a fresh suit, while observing as under:

"The petitioners herein had filed a Suit purported to be under the provisions of Section 5 & 6 of the Specific Relief Act. However, in the said Suit the petitioners had prayed for grant of permanent injunction or in the alternative recovery of possession or in the further alternative a decree for specific performance of contract. Such a Suit was not maintainable in law. However, the learned Judge had dismissed the Suit purported to be in terms of Order VII Rule 11 of the Code of Civil Procedure on the ground that the plaintiff has prayed a fraud by withholding the relevant agreement and material in the matter.

In view of the fact that the plaintiff can file an appropriate suit, we do not think it to be a fit case for us to exercise our discretionary jurisdiction under Article 136 of the Constitution. The special leave petition is dismissed accordingly.

(Emphasis Supplied)

7. Thereafter, Smt. Vaneeta and Sh. Arun filed the present suit with the following prayers:

"a) a decree of declaration that the Plaintiff No.1 is the sole and exclusive owner of the suit Premises No. 8/289, Sunder Vihar, Paschim Vihar, New Delhi-110087, and that neither of the Defendants have any right, title or interest in the suit property.

b) a decree of possession in favour of the Plaintiff No 1. And against the Defendants directing the Defendants, jointly and severally, to



handover the vacant and peaceful possession of the suit property bearing No. 8/289, Sunder Vihar, Paschim Vihar, New Delhi-110087 measuring 267 sq. yds. to Plaintiff No.1.

c) A decree of Rs. 3,16,000/- towards mesne profits/damages in favour of the Plaintiff No. 1 and against the Defendants at the rate of Rs.15.000/- per month w.e.f. 24.07.2004 to the date of institution of the suit and pendente lite and future mesne profits at market rates of rent prevailing from time to time for like premises.

d) A decree of Perpetual Injunction in favour of the Plaintiff No.1 and against the Defendants thereby restraining the Defendants their agents, representatives, assigns, attorneys, from in any manner selling, alienating transferring, encumbering or parting with the possession of the whole or part of the suit property bearing No. 8/289, Sunder Vihar, Paschim Vihar, New Delhi-110087 measuring 267 sq. yds. and from raising any further construction over the suit property or to maintain status quo in respect of the suit property.

e) A decree of Declaration in favour of the Plaintiffs whereby declaring the Deed of Cancellation dated 17.08.2004 executed by Defendant No.2 to be null and void, non operative, whereby he cancelled the irrevocable registered General Power of Attorney dated 12.05.2004 executed in favour of Plaintiff No2.

f) A decree of Declaration thereby declaring the Deed of Cancellation dated 19.08.2004 executed by Defendant No.1 to be null and void and non operative, whereby he cancelled the irrevocable General Power of Attorney and Special Power of Attorney executed in favour of Defendant No.2 by virtue of which the Defendant No.2 executed documents of sale in favour of Plaintiff No.1.

g) A decree of Declaration thereby declaring, the Declaration Deed dated 09.09.2004 executed by Defendant No. 2 to be null and void and non operative, in favour of Defendant No. 1 declaring him to be the owner of the suit property again though the sale stood completed in favour of the Plaintiff No.1 on 12.05.2004.

h) A decree of Declaration thereby declaring the GPA, Agreement to Sell, Will or such other documents dated 14.9.2004 or of any other date executed by the Defendant No.1 in favour of the Defendant No. 3 to 6 to be null and void and non operative, and not binding on the Plaintiff No.1.

i) A decree of declaration thereby declaring null and void and the consequential cancellation of any of and all documents executed by any of the Defendants herein subsequent to 12.5.2004 in any manner relating to the suit property which may have been concealed and



suppressed from the Plaintiffs of which the Plaintiffs have no knowledge.

j) Any other and/or further orders, may also be passed in favour of the Plaintiff No.1 and against the Defendants, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

8. Separate Written Statements were also filed by Judge Chawla, Sh. Anuj, Sh. Praveen Chopra, Smt. Sushma Chopra, and Sh. S.S. Chopra. A Replication was also filed, and the Court culled out the following issues:

“1) Whether the Plaintiff No. 1 has acquired any title to property no. 8/289, Sunder Vihar, Paschim Vihar, New Delhi and is entitled to possession thereof? OPP

2) If the issue no.1 is decided in favour of the Plaintiff No. 1, whether the Plaintiff No.1 is entitled to any mesne profits, if so, at what rate and for what period and from whom? OPP

3) Whether there exists any collaboration agreement dated 18th May, 2004 between the Plaintiff No.2 and Defendant No.2, if so, to what effect? OPP

4) Whether the suit is barred by res judicata? OPD

5) Whether the Defendants No.3 to 5 are bonafide purchasers without notice and are not liable to deliver possession to the Plaintiff No.1? OPD 3 to 5.

6) Whether the Defendants No.1 & 2 are in collusion with each other and what is the effect, if any, of the documents dated 17th August, 2004, 19th August, 2004 and 9th September, 2004 inter se the said Defendants? OPP

7) Whether the suit is correctly valued for the purposes of court fee and jurisdiction, if not, to what effect? OPD 2

8) Relief.”

9. Smt. Vaneeta and Sh. Arun, apart from oral evidence, produced and proved the following documents:

“(i) Registered General Power of Attorney dated 12.5.2004 executed by defendant no.1 in favour of defendant no.2; Ex.PW1/1

(ii) Agreement to Sell in favour of plaintiff no.1 by defendant no.2 dated 12.5.2004; Ex.PW1/2



- (iii) Registered General Power of Attorney executed by defendant no.2 in favour of plaintiff no.2; Ex.PW1/6*
- (iv) Receipt dated 12.5.2004 by defendant no.2 in favour of plaintiff no.1; Ex.PW1/3*
- (v) Affidavit dated 12.5.2004 by defendant no.2 in favour of plaintiff no.1; Ex.PW1/4*
- (vi) Registered Will dated 12.5.2004 executed by defendant no.2 in favour of plaintiff no.1; Ex.PW1/5*
- (vii) Registered Agreement to Sell dated 16.6.2004 executed by plaintiff no.2 in favour of plaintiff no.1 acting as the registered Power of Attorney holder dated 12.5.2004 of defendant no.2 in favour of plaintiff no.2; Ex.PW1/8*
- (viii) Police complaint dated 24.7.2004 of the plaintiff no.1 being illegally dispossessed; Ex.PW1/9*
- (ix) Order of the Supreme Court in SLP No. 6902/2006 dated 28.4.2006; Ex.PW1-19”*

10. On the other hand, Sh. Rajiv, Judge Chawla, Sh. Anuj, Sh. Parveen Chopra, Smt. Sushma Chopra, Sh. S.S. Chopra produced the following documents:

- “(i) Registered General Power of Attorney dated 22.3.2004 executed by defendant no.1 in favour of defendant no.3; Ex.D-1*
- (ii) Registered Will dated 22.3.2004 executed by defendant no.1 in favour of defendant no.3; Ex.D-2*
- (iii) Registered Agreement to Sell dated 14.9.2004 by defendant no.1 in favour of defendant nos,3 to 5; Ex.D-3W1/6*
- (iv) Receipt dated 14.9.2004 in favour of defendant nos.3 to 5; Ex.D3W1/10*
- (v) Judgment of the District Court dated 27.11.2004; Ex.PW1/16*
- (vi) Judgment dated 2.3.2006 in R1”A No.631/2004; Ex.PW1/17”*

11. The learned Single Judge decreed the suit for possession of the Suit Property, bearing No. 8/289, Sunder Vihar, New Delhi, and held that Smt. Vaneeta was entitled to *mesne* profits at the rate of Rs.15,000/- per month from 24.07.2004 till 14.09.2004 as against Sh. Rajiv and Judge Chawla, along with simple interest at 9% per annum,



pendente lite and future. Mesne profits at the rate of Rs.15,000/- per month were also awarded from Defendant Nos.3 to 6, along with simple interest at 9% per annum, pendente lite and future, till the amount is paid. The learned Single Judge further declared that the documents executed between the Defendants after 16.06.2004 were illegal, void, and of no legal effect, and would not, in any manner, cause derogation of the rights of Smt. Vaneeta. The Defendants were also enjoined from claiming themselves to be the owners of the Suit Property.

12. Challenging the correctness of the Impugned Judgment, the present Appeals have been filed as RFA(OS) 117/2015 by Sh. Anuj, Sh. Pravin Chopra, Smt. Sushma Chopra, and Sh. S.S. Chopra [hereinafter referred to as the 'Chopras'], and as RFA(OS) 21/2016 by Sh. Rajiv.

Submissions on behalf of Appellants:

13. Learned senior counsel for the Chopras has submitted as follows:

i. The Chopras are *bona fide* purchasers of the Suit Property for valuable consideration, as a registered GPA and a registered Will were executed in their favour on 22.03.2004, whereas the registered ATS was executed on 14.09.2004, along with a registered Will and a registered GPA, on payment of the balance sale consideration. The Appellants additionally paid Rs.1,00,000/- and Rs.1,50,000/- respectively to Smt. Usha and Smt. Anita *qua* relinquishment of their



share. The Chopras were handed over vacant and peaceful possession of the Suit Property on 14.09.2004.

ii. Smt. Vaneeta and Sh. Arun have produced two different copies of the plaint filed in the suit. Hence, Smt. Vaneeta and Sh. Arun are not entitled to any substantive relief. It is further contended that the subsequent suit was not maintainable in view of the provisions of Order II Rule 2 of the CPC, inasmuch as Smt. Vaneeta and Sh. Arun were entitled to seek all the reliefs in the civil suit being CS(OS) 393/2004. Moreover, Sh. Rajiv, while executing the GPA on 15.03.2004 in favour of Judge Chawla, did not authorize him to further delegate the authorization. Hence, the documents executed by Judge Chawla have no legality.

iii. It is further contended that in the suit filed by Smt. Usha and Smt. Anita, a status *quo* order was passed, and the transactions executed by Sh. Rajiv and Judge Chawla are illegal, being in violation of the injunction order. For this, reliance is placed upon ***Avinash Kumar Chauhan v. Vijay Krishna Mishra***¹, wherein it has been held that under Section 33 of the Stamp Act, it is mandatory for all authorities, including Courts, to impound an insufficiently stamped document. Since the unregistered sale deed was inadequately stamped, it was liable to be impounded. Further, Section 35 bars its admission in evidence for any purpose, including collateral purposes.

iv. Lastly, it was contended that in view of the Collaboration Agreement executed on 18.05.2004, there was novation of contract, and hence, the previous ATS and GPA could not enure to the benefit

¹ (2009) 2 SCC 532.



of Smt. Vaneeta and Sh. Arun. Furthermore, Smt. Vaneeta and Sh. Arun never sought cancellation of the Collaboration Agreement dated 18.05.2004.

v. Learned counsel for Sh. Rajiv claims that *mesne* profits at the rate of Rs.15,000/- per month have been awarded without any evidence. Hence, RFA(OS) 21/2016 deserves acceptance.

Submissions on behalf of the Respondents:

14. *Per contra*, learned counsel for the Respondents, while defending the Impugned Judgment, has submitted as follows:

i. The registered GPA and registered Will dated 22.03.2004 would not confer any right upon the Chopras, as they were not accompanied by a registered ATS on payment of sale consideration. It is submitted that the Chopras, at the most, would be entitled to represent Sh. Rajiv on the basis of the GPA and registered Will. It is further contended that, in fact, the Chopras have played fraud by obtaining the signatures under the pretext of securing permission for conversion of the property from leasehold to freehold and by getting his signatures on blank papers, on which the Collaboration Agreement was fabricated. It is contended that the aforesaid Collaboration Agreement was not produced in evidence, and only a photocopy was filed, which was never marked as an Exhibit.

ii. That Smt. Vaneeta and Sh. Arun have a superior right as compared to the Chopras, in view of the fact that the ATS in their favour was executed in the month of September 2004, whereas the documents in favour of Smt. Vaneeta and Sh. Arun, including the



registered GPA and unregistered ATS, were executed on 12.05.2004, followed by a registered ATS executed by Sh. Arun in favour of Smt. Vaneeta on 16.06.2004. Thus, it is contended that the entire sale consideration was duly received by Judge Chawla, and hence, Sh. Arun had an interest in the agency created by virtue of the GPA, which could not be revoked in view of Section 202 of the Contract Act, 1872 [hereinafter referred to as 'ICA'].

iii. For this, they relied upon *Smt. Prakash Devi v. Rajinder Kumar*² and *Pradeep Chaudhary and Another v. Birwati and Others*³, which held that under Section 202 of the ICA, an agency coupled with interest cannot be terminated to the prejudice of such interest, even by death or insanity of the principal, contending thereby that the GPA remained valid even after death. Reliance was placed on *Ramesh Mohan and another v. Raj Kishan and others*⁴, and *Seth Loon Karan Sethiya v. Ivan E. John and others*⁵, which consistently held that a power of attorney coupled with interest is irrevocable.

Findings & Analysis:

15. This Court has examined the registered GPA and registered Will dated 22.03.2004 executed by Sh. Rajiv in favour of the Chopras and found that there is no reference to payment of any consideration for execution of the GPA. The registered Will dated 22.03.2004 would operate only after the death of the testator, i.e., Sh. Rajiv. Under the registered GPA dated 22.03.2004, the Chopras could, at the most,

² 2022:PHHC:074382.

³ 2022:PHHC:073645.

⁴ 1984, Punjab Law Reporter, 211.

⁵ AIR 1969 SC 73.



manage the Suit Property in any manner as authorized by Sh. Rajiv but GPA would not create any interest in favour of the Chopras. The registered ATS in favour of the Chopras was executed on 14.09.2004, whereas the documents in favour of Smt. Vaneeta and Sh. Arun were executed on 12.05.2004, followed by a registered ATS on 16.06.2004. Hence, the Chopras cannot claim superior rights in the Suit Property over Smt. Vaneeta and Sh. Arun, in view of the provisions under Section 48 of the Transfer of Property Act, 1882.

16. The second submission of the learned senior counsel for the Chopras lacks merit, as Smt. Vaneeta and Sh. Arun originally produced two typed copies of the plaint, however, subsequently, they produced certified copies of the plaint in which certain additions were made. The certified copy of the plaint was proved on record and marked as an Exhibit. Hence, the same is required to be relied upon.

17. The next submission of the learned senior counsel for the Chopras also lacks merit, as the Appellants, before the learned Single Judge, neither claimed an issue on Order II Rule 2 of the CPC nor pressed this objection before the learned Single Judge. In any case, the bar under Order II Rule 2 of the CPC will come into operation only if it is proved that Smt. Vaneeta and Sh. Arun omitted to sue or intentionally relinquished any portion of their claim. In fact, Smt. Vaneeta and Sh. Arun filed a comprehensive civil suit, being CS(OS) 393/2004, in which the plaint was unfortunately rejected under Order VII Rule 11 of the CPC, which was in turn upheld by a Division Bench of this Court. However, the Supreme Court has already clarified the matter while granting liberty to Smt. Vaneeta and Sh.



Arun to file a fresh civil suit. Hence, the bar under Order II Rule 2 of the CPC will not be applicable.

18. The next submission of the learned senior counsel for the Chopras lacks substance, as a careful reading of the GPA executed by Sh. Rajiv in favour of Judge Chawla on 12.05.2004 shows that Judge Chawla was authorized to execute any other deed or document apart from hire purchase agreements, conveyance deeds, supplementary deeds, etc. In the last clause, Sh. Rajiv authorized Judge Chawla to generally do all other acts, deeds, and things which were permissible for an owner. The residuary clause of the GPA reads as follows:

“And generally to do all other acts, deeds and things, so done by him/her should be considered as done by me/us as I/We could do the same personally if I/We were present”

19. Learned senior counsel for the Appellants has vehemently contended that the documents executed on 12.05.2004 and 16.04.2004 were in violation of the status quo order and, hence, are not enforceable. Any document executed in infringement of the injunction order is not void. Reliance in this regard can be placed upon the judgment of the Supreme Court in *Thomson Press (India) Ltd. v. Nanak Builders & Investors P. Ltd. & Ors.*⁶ The relevant portion of the relied-upon judgment can be read as under:

“53. There is, therefore, little room for any doubt that the transfer of the suit property pendente lite is not void ab initio and that the purchaser of any such property takes the bargain subject to the rights of the plaintiff in the pending suit. Although the above decisions do not deal with a fact situation where the sale deed is executed in breach of an injunction issued by a competent court, we do not see any reason why the breach of any such injunction should render the transfer whether by way of an absolute sale or otherwise ineffective. The party

⁶ (2013) 5 SCC 397.



committing the breach may doubtless incur the liability to be punished for the breach committed by it but the sale by itself may remain valid as between the parties to the transaction subject only to any directions which the competent court may issue in the suit against the vendor.”

20. With respect to the last submission of the Appellants’ counsel pertaining to the Collaboration Agreement, it is noticed that neither the original Collaboration Agreement has been produced nor proved. Moreover, the alleged Collaboration Agreement was allegedly executed by Sh. Arun but Smt. Vaneeta has executed the same. On a careful reading of the Collaboration Agreement, it becomes evident that Sh. Arun was not even the owner of the Suit Property, and he agreed to construct the first and second floors of the Suit Property and also agreed to pay Rs. 5,00,000/- to Judge Chawla. The learned Single Judge has held that such agreement is the result of fabrication, as the signatures of Sh. Arun were taken on the pretext of submitting documents for conversion of the Suit Property from leasehold to freehold. It has been projected in the Collaboration Agreement that Judge Chawla is a ‘developer’; however, he does not have the responsibility to construct the building. The entire responsibility was of Sh. Arun to construct the building from his own funds, and Sh. Arun had additionally agreed to pay Rs. 5,00,000/- to Judge Chawla. The terms of the Collaboration Agreement are not only surprising but also unconscionable. Hence, the learned Single Judge has correctly held that such agreement is the result of fabrication.

21. There is also no merit in the Appeal filed by Sh. Rajiv, being RFA(OS) 21/2016, as the learned Single Judge has only awarded *mesne* profits for a period of two months at the rate of Rs.15,000/- per



2025:DHC:7849-DB



month against him. The learned Single Judge has held that the rental value of the property was not less than Rs.15,000/- per month.

22. Accordingly, finding no merit, the present Appeals, along with pending applications, are dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 10, 2025/jn/RGK