



2026:DHC:893



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

% Date of Decision: 27.01.2026

+ **FAO 383/2018**

USHA RANI

.....Appellant

Through: Mr. R.M. Sinha, Mr. Prateek Sinha,
Ms. Namita and Ms. Nandini,
Advocates.

versus

SEEMA & ORS

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal, filed under Order XLIII Rule 1 (r) CPC, impugns the order dated 04.07.2018 passed by the learned ADJ, East District, Karkardooma Courts, in Misc. DJ No. 1106/2016 [formerly CS(OS) No. 198/2011], whereby the Trial Court declined to initiate contempt proceedings against respondent no. 1 and declined to declare the Sale Deed dated 16.03.2011 *qua* the suit property as *non est*, the same having been entered into between the respondents/defendants after the passing of the injunction order dated 31.01.2011.

2. Briefly, the appellant, who is the plaintiff before the Trial Court, had preferred a suit for declaration and permanent injunction. In the plaint, it was averred that the late *Smt. Maya Devi*, the mother of the appellant/plaintiff as well as respondent/defendant no. 1, had executed a Will dated 23.05.2008 in favour of respondent no. 1, which was sought to be



declared null and void; the plaintiff further prayed to be declared as joint owner of the suit property. The appellant/plaintiff also prayed for a restraint order against selling, transferring, and alienating the suit property.

Initially, the suit was filed before this Court, and *vide* order dated 31.01.2011, an *ex parte* injunction was granted and the parties were directed to maintain *status quo* with respect to the title of the suit property till further orders.

3. The appellant/plaintiff thereafter preferred the subject application under Order XXXIX Rule 2(A) read with Section 151 CPC, as well as under Section 12 of the Contempt of Courts Act, 1971, thereby claiming that respondent/defendant no. 1 had violated the injunction order dated 31.01.2011. Both the plaintiff and respondent/defendant no. 2 stated that respondent/defendant no. 1 was not residing at the suit property. It was further claimed that respondent/defendant no. 1 was mentally challenged and the matter was also reported to the police.

4. Respondent/defendant no. 1, on appearance, submitted that late *Smt. Maya Devi* had cancelled her earlier Wills and executed her last Will on 13.05.2018 in favour of respondent/defendant no. 1, granting her full right to sell, mortgage, or transfer the suit property to any person. She further claimed that the suit property had already been sold on 17.01.2011, i.e., prior to the filing of the suit. The purchasers of the suit property, namely, *Sardar Narender Pal Singh* and *Vikram Singh*, were also impleaded as defendant nos. 3 and 4 before the Trial Court and are respondent nos. 3 and 4 before this Court. On being impleaded, respondent/defendant nos. 3 and 4 pleaded that respondent/defendant no. 1 had claimed herself to be the absolute owner of the suit property and sold the same to them. It was further



claimed that for execution of the sale deed, the parties had appeared before the Sub-Registrar's Office on 17.01.2011, but the sale deed could not be registered on the said date and the same was finally registered on 16.03.2011. It was further claimed that copy of the order dated 31.01.2011 was never received by them.

5. Apparently, on account of a change of pecuniary jurisdiction, the suit was transferred from this Court to Karkardooma Courts, *Delhi*. The Trial Court, after hearing the subject application, concluded *vide* the impugned order that though the stamp paper for the sale of the suit property was purchased on 17.01.2011, i.e., prior to the filing of the suit and prior to the passing of the *status quo* order, the sale deed was finally registered on 18.03.2011. Further, the sale consideration amount was also paid after the passing of the said order. The Trial Court noted that respondent/defendant no. 1 had violated the *ex parte* injunction order, which she was aware of, having entered an appearance on 01.03.2011; however, noting the plaintiff's contention that respondent/defendant no. 1 was of unsound mind, the Trial Court did not proceed against her. The Trial Court recorded the following reasons for not attaching the property or sending respondent/defendant no. 1 to civil prison:-

“(1) Firstly, because it is the case of plaintiff/applicant himself that defendant no. 1 is not mentally sound and if it is so then defendant no. 1 did not commit the breach/violation of injunction order deliberately and she does not deserve to be punished.

(2) Secondly, because the first stamp paper of the sale deed dated 16/03/2011 was purchased on 17/01/2011, i.e. before the filing of the suit indicates that the transaction with respect to the suit property commenced prior to filing of suit and ultimately culminated into sale deed after the injunction order. The connivance of plaintiff and defendant no. 1 and defendant no. 2, who are real sisters, cannot be ruled out in the light of these facts and in these peculiar facts, it would not serve the ends of justice if defendant no.1 is sent to civil prison for the breach committed.



(3) *Thirdly, no pecuniary loss has been suffered by plaintiff and no prejudice is caused to him as the subsequent purchasers were impleaded as defendant no. 3 and 4 on his application and they will remain bound by the outcome of the case.*

(4) XXXXXX”

6. Further, the Trial Court, instead of declaring the Sale Deed dated 16.03.2011 executed in favour of respondent/defendant nos. 3 and 4 as *non est*, directed that the said respondents/subsequent purchasers, are equally bound by the order dated 31.01.2011. In reaching the said conclusion, the Trial Court duly took into account that the sale transaction was recorded on stamp paper that was purchased prior to the filing of the suit.

7. This Court, on a carefully going through the records of the case, concurs with the impugned order, as the Trial Court has exercised the discretion which vests with it. Respondent/defendant nos. 3 and 4, i.e., the subsequent purchasers, were impleaded at the request of the plaintiff. They stand injuncted by the order dated 31.01.2011. Even otherwise, the doctrine of *lis pendens* applies. As per Order XXXIX Rule 2A CPC, the Court is fully empowered to exercise its discretion to punish or not punish a person who has violated an injunction order.

8. The Trial Court, in the peculiar facts as noted above, as well as by further injuncting the respondent/defendant nos. 3 and 4, decided not to proceed with any punishment as prayed for by the appellant/plaintiff, who stands adequately protected by the order. Finding no reason to interfere with the impugned order, the present appeal is dismissed.

**MANOJ KUMAR OHRI
(JUDGE)**

JANUARY 27, 2026/ga