



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

Reserved on: 12th February, 2024

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Pronounced on: 08th May, 2024

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COUNTER CLAIM (CS) NO.24/2019

IN

CS(OS) NO.108/2019

M/s J.P. GUPTA (HUF)

Thru Its Karta

Shri Rajat Gupta

S/o Late Shri J.P. Gupta

45/6-B, Mall Road, Delhi-110054

.....Counter Claimant/Defendant No.4

Through: Mr. Subhash Garg, Advocate for D-4
and Counter Claimant.

versus

1. GUJRANWALA GURUKUL TRUST SOCIETY

(Regd.) & Ors.

Thru Its Sec.

Ms. Renu Mehta/ Other A.R.

10, Ram Bagh, Old Rohtak Road,

Delhi-7.

2nd Address:

4/12, East Punjabi Bagh,

New Delhi-110026.

....Defendant No.1

2. MS. RENU MEHTA

W/o Late Shri Vinay Mehta

R/o B-6, Ansal Villas,

Satbari, Mehrauli, New Delhi.

....Defendant No.2

3. SHRI VIJAY GUPTA

S/o Late Shri O.P. Gupta

R/o 27, Bungalow Road,



Delhi-110007.

....Defendant No.3

4. **MOON LITE EDUCATION SOCIETY (REGD.)**

Pocket 8, sector-21,
Rohini, Delhi-110085.

....Plaintiff No.1

5. **SHRI SUSHIL KUMAR GUPTA**

S/o Late Shri Kali Ram
R/o 18, Firozshah Road,
New Delhi-110001.

....Plaintiff No.2

Through: Mr. Atul Gupta, Advocate for
Moonlite Education Society.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

I.A.12860/2022 (under Order 11 Rule 7/10 of the Commercial court Act, 2015 read with Section 151 CPC on behalf of defendant No.4 seeking Permission to file Additional Documents) & I.A.12859/2022 (under Order 11 Rule 7/10 of the Commercial court Act, 2015 read with Section 151 CPC on behalf of Counter-claimant/Defendant No.4 seeking Permission to file Additional Documents) In CC No.24/2019

1. By way of the two applications defendant No.4/counter-claimant M/s J.P. Gupta, HUF has sought to place the additional documents, on record.
2. It is submitted in the applications that the suit is still at the stage of completion of pleadings, documents, admission/denial etc. The plaintiffs are claiming title to the suit property on the basis of two Gift Deeds dated



20.07.2008, both executed by Shri Vinay Kumar Mehta in favour of plaintiff Nos.1 & 2. The defendant No.4 has submitted that from the information gathered by it, it has been discovered that the two Gift Deeds are forged, fabricated and manipulated documents wherein the property has been wrongly shown to be the personal property of the donor on the basis of two unregistered Wills.

3. It is claimed that the suit property was owned by defendant No.1 Trust Society which was purchased by “Govind Swami Banprasti” being a “Sanyasi”, founder member and manager of the defendant No.1 Trust Society.

4. It is further claimed that the plaintiffs have intentionally not filed the Sale Deed dated 22.06.1955, through which the suit property was initially purchased by Govind Swami Banprasti in the name of defendant No. 1 Trust Society. Furthermore, the plaintiffs have also failed to disclose the Will dated 06.02.1991 allegedly executed by Smt. Satya Devi and the rent receipts issued by the defendant Trust Society in favour of its tenant M/s Shri Swastik Silicate Mills. The defendants seek permission to place on record the Sale Deed dated 22.06.1955 and the photocopy of a Will dated 06.02.1991 and the rent receipts, to be taken of record.

5. **Submissions heard.**

6. It is the case of the plaintiff itself that Govind Ram Mehta also known as Govind Swami Banprasti, the predecessor in interest, had purchased 20 bighas and 8 biswa of land now known as Ram Bagh in village Delhi. The Sale Deed dated 22.06.1955 pertains to this purchase of suit property in the name of Gobind Ram Mehta. Further, in the plaint itself, there is a mention of Will dated 06.02.1991 of Smt. Satya Devi.



7. Furthermore, the defendant had taken a specific plea that the suit property had been let out to various tenants from whom the rent was being collected. The photocopies of the rents receipts also pertain to those tenants.

8. Considering the pleadings and the nature of documents, the same are permitted to be taken on record.

9. The applications are accordingly, allowed.

I.A.12451/2022 (under Order VI Rule 17 read with Section 151 CPC on behalf of counter-claimant/Defendant No.4 M/s J.P. Gupta HUF, seeking Amendment of the Statement of counter-claim) In CC No.24/2019

10. An application has been filed on behalf of *counter-claimant/defendant No.4 M/s J.P. Gupta HUF* for amendment of its Counter Claim.

11. **It is submitted in the application that** the plaintiff has filed a suit for *Declaration, Cancellation, Possession etc.* Defendant No. 4 has contested the suit by filing a Written Statement and has also filed a separate Counter Claim. The case is at the stage of completion of pleadings, documents, admission/denial etc.

12. The plaintiffs in their suit had claimed to have derived the title to the suit property by way of two Gift Deeds dated 20.07.2008 executed by Shri Vinay Kumar Mehta (donor) in their favour. Both these Gift Deeds are witnessed by Ms. Renu defendant No.2/Secretary of defendant No.1/Trust. In the said documents, the donor has claimed his ownership on the basis of the Sale Deed dated 22.06.1955 coupled with two Gift Deeds. However, the plaintiff have failed to produce the Sale Deed dated 22.06.1955 coupled with two Gift Deeds.

13. It is submitted that defendant No. 4 has come to know that the property had not been purchased by Gobind Swami Mehta in his individual



capacity. Gobind Swami Mehta had become a Sanyasi and the suit property had been purchased by him for charitable purposes. Thus, the counter-claimant/defendant No.4 seeks the consequent amendments in his *Counter-Claim*.

14. **Submissions heard.**

15. The defendant No.4 has sought to substitute *Clause A of the Counter Claim in the preliminary submission* to state that the 20 bighas 8 biswas of land was purchased by defendant No.1 Trust Society through its founder member Govind Swami Banprasti. To the similar effect, the new sub clauses after substituted Clause A are sought to be inserted as A1 to A5, wherein it is again reiterated that the suit property was originally purchased in the year 1955 by defendant No.1 Trust through Govind Swami Banprasti.

16. The Counter Claimant in its Written Statement as well as in the Counter Claim had clearly stated that the suit property had been purchased by Govind Ram Mehta/ Govind Swami Banprasti vide registered Sale Deed dated 22.06.1955 and thereafter a charitable Trust Society was created namely “Gujranwala Gurukul Trust Society” which was registered and Certificate of Registration was issued on 16.10.1955.

17. It is further apparent from the original pleadings as well as the Sale Deed that the suit property had been purchased in June, 1955 vide Sale Deed by Sh. Govind Ram Mehta while the Trust has been created subsequently in October, 1955. When the Trust itself has come into existence after the purchase of the suit land, the averments which are sought to be made are not only contrary to the original pleadings of the Suit as well as the counter claim but also are contrary to the documents/Sale relied upon by the Counter Claimant. The suit property may have been purchased with an intent to be



used for charitable purposes as is mentioned in the Sale Deed but intention of the purchaser cannot make the Charitable Trust as the owner, as is claimed by the Counter-Claimant. This amendment clearly amount to retraction of the admissions made by the counter claimant.

18. The Apex Court in Modi Spinning and Weaving Mills Co.Ltd v. M/s.Ladha Ram and Company, AIR 1977 SC 680 held that defendant cannot be permitted to change his case completely and substitute an entirely new case.

19. If the defendant is allowed to make the proposed amendments, it would completely displace the plaintiff from the admissions made by the defendants in the Written Statement as well as the Counter Claim.

20. The proposed amendments by incorporating Clause A and A1 to A5 and paragraph O are, therefore, disallowed.

21. The Counter Claimant has further sought to describe Shri Gobind Ram Mehta in Clause F and Paragraph 7(II) of the Counter Claim as Govind Swami Banprasti instead of Gobind Ram Mehta. The usage of the name Sh. Gobind Ram Mehta in the Counter Claim does not lead to any confusion as it has already been explained in the plaint that Sh.Gobind Ram Mehta later came to be known as Govind Swami Banprasti.

22. This amendment is again not necessary and therefore, it is disallowed.

23. The Counter Claimant has further sought to insert a sub clause after **Clause H** that defendant No.1 Trust Society was collecting rent from various tenants and has given the details of the rent collected from the various tenants through the rent receipts, as detailed therein.

24. Since, this proposed amendment is explanatory to the contents of



Clause H, the said amendment is allowed.

25. The counter-claimant also intends to insert *paragraph 10* after paragraph 9 of his Counter Claim to take an additional plea of suit of the plaintiff *being barred by limitation* as the Lease Deed dated 13.07.1979 and the Assignment Deed GPA dated 18.04.2001 were not challenged within a period of three years by its Executants i.e. defendant No.2 Renu Mehta and her husband Vinay Kumar Mehta.

26. **This being a legal objection, is permitted to be incorporated by way of amendment.**

27. In view of the aforesaid discussions, the amendments in clause H and the insertion of paragraph 10 in the Counter Claim are allowed while the rest of the amendments proposed by the counter claimant are hereby dismissed.

28. The application under Order VI Rule 17 CPC is accordingly disposed of.

CS(OS) 108/2019 & CC No.24/2019

29. List before learned Joint Registrar for completion of pleadings on 19.07.2024.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 8, 2024

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