

I-19
CS SCJ 311/22
POOJA CHADHA Vs. RITA CHADHA

11.11.2024

Present: Sh. Chirag Verma, Ld. Counsel for the plaintiff.
Sh. Arbinda Nayak, Ld. LAC for the defendant no. 1
and 2.

1. Cost of Rs. 1000/- imposed upon the plaintiff vide order dated 11.09.2024 paid to Ld. LAC for the defendant no. 1 and 2.

2. The matter is fixed for arguments on application under Order 39 Rule 1 & 2 CPC.

3. Ld. Counsel for the plaintiff reiterated the contents of his application and stated that defendant no.1 and 2 are planning to remove the properties mentioned in para no. 9 of the plaint and they might misappropriate the said amount. Accordingly, he states that the present application may be allowed. He stated that as per the rules of Intestate Succession, plaintiff and defendant no.1, are equal share holders to the property of deceased husband of plaintiff. Therefore, if defendant no. 1 and 2 are not restrained. There is a possibility that plaintiff's share may be misappropriated by defendant no. 1 and 2.

4. Per contra, Ld. LAC for defendant no. 1 and 2 stated

that vide order dated 31.01.2023, the amount of Rs. 1,88,880/- i.e. the liquidated amount of the LIC Mutual Fund Folio and the SBI Mutual Fund Folio has already been deposited in court. With respect to the Life Insurance Policies of plaintiff's deceased husband, defendant no.1 has filed a suit for succession bearing no. Succ Court no. 112/2024, on the basis of the aforesaid suit, the LIC Policies would be distributed equally among the plaintiff and defendant no.1, therefore, there is no ground for allowing the present application.

5. Submissions heard. Record perused.

6. By way of the present application under Order 39 Rule 1 & 2 CPC, plaintiff has sought the following reliefs:-

“A. Pass an ex-parte ad-interim injunction thereby restraining the Defendants No.1 and 2 from dealing with, withdrawing, utilising or in any other manner using the assets/funds/policies/securities/ of Late Sh. Prince Chadha; during the pendency and subject to the outcome of the present suit.

B. Pass an ex-parte ad-interim injunction thereby restraining the Defendants No.3 to 5 thereby restraining them from liquidating/releasing assets/funds/policies/securities/ of late Sh. Prince Chadha in favour of the Defendant No.1 and 2 or anyone else; during the pendency and subject to the outcome of the present suit.

C. Pass such other and further orders which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case in the interest of the justice.”

7. At this stage reference is made to the relevant

provisions of law, necessary for adjudication of the present application: -

“Order 39, Rule 1 CPC:-

1. Cases in which temporary injunction may be granted.-Where in any suit it is proved by affidavit or otherwise-

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends, to remove or dispose of his property with a view to [defrauding] his creditors,

(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit,] the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property [or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit] as the Court thinks fit, until the disposal of the suit or until further orders.”

(emphasis supplied)

8. The three-fold test of establishing (i) *prima facie* case, (ii) balance of convenience and (iii) irreparable loss or harm, for grant of interim relief is well-established. In light of these principles, I proceed to deal with the facts of the present case.

Prima facie case:-

9. It is an admitted fact that, plaintiff is the wife of late Sh. Prince Chadha and defendant no.1 is the daughter of late Sh. Prince Chadha. It is also an admitted fact that, late Sh. Prince Chadha died intestate, leaving behind plaintiff and defendant

no.1 as his class 1 legal heirs. Since, as per Hindu Succession law, both the plaintiff and defendant no.1 are entitled to share equally the estate of late Sh. Prince Chadha and considering the fact that vide order dated 11.03.2022 passed by this court, defendants have already been directed to maintain status quo in relation to the Insurance Policies, LIC Mutual Funds and SBI Mutual Funds of late Sh. Prince Chadha. It is evident that, plaintiff has a prima facie case in her favour.

Balance of Convenience:-

10. Since, plaintiff has filed the present suit to restrain the defendants from appropriating the estate of late Sh. Prince Chadha till the rights of the parties are determined as per law and plaintiff has established that, there is apprehension of defendant no.1 and 2 appropriating the estate of late Sh. Prince Chadha amongst themselves. Therefore the balance of convenience lies in favour of the plaintiff and against the defendant.

Irreparable Loss:-

11. In light of the foregoing facts, if the defendant no.1 and 2 are not restrained from appropriating the estate of late Sh. Prince Chadha, it is evident that, irreparable loss might ensue upon the plaintiff.

12. Considering the foregoing decision, it is evident that, plaintiff has satisfied the three fold test of proving existence of prima facie case in her favour, balance of convenience being in her favour and irreparable loss being caused to her if

injunction is not granted. **Therefore, the present application under Order 39 Rule 1 & 2 CPC is disposed of as allowed.**

13. Defendant no.1 and 2 are hereby restrained from dealing with, withdrawing, utilising or in any other manner using the assets/funds/policies/securities/ of Late Sh. Prince Chadha till pendency of the present suit.

14. Both the parties are directed to file affidavit towards admission / denial of documents at least 7 days prior to the NDOH with advance copy to each other.

15. Put up for settlement of issues on **16.01.2025**.

(Yashu Khurana)
Civil Judge-01, South East
District, Saket, New Delhi,
11.11.2024