

T.P. Civil No. 1/2026
Ram Rai vs. Madhubala

19.03.2026

Present: Sh. Sanjeev Datta, counsel for applicant in VC.
None for respondent.

This is not in dispute that property No. 189/18, Resettlement Colony, Kalyan Puri, Delhi belongs to deceased Sh. Babu Lal. The petitioner/applicant Sh. Ram Rai filed a probate case bearing 31/2022 on 05.09.2022 on the basis of one Will dated 15.04.2019 allegedly executed by deceased Sh. Babu Lal in his favour and that petition is pending in the court of Sh. Hem Singh, DJ-01, East/KKD, Delhi which is fixed for 29.04.2026 for petitioner's evidence. In that petition, one of the respondents is Smt. Madhubala as respondent no. 4.

Smt. Madhubala alongwith her son Divyanshu filed a civil suit bearing no. 12/2025 on 07.01.2025 for partition, possession, injunction as well as to declare the Will dated 15.04.2019 of Sh. Babu Lal as null and void which is still at the stage of service of some defendants and is pending in the court of Ms. Shuchi Laler, DJ-02, East/KKD, Delhi which is fixed for 05.05.2026. In this civil suit, petitioner Sh. Ram Rai is also one of the defendants.

Present petitioner Sh. Ram Rai has moved this transfer application for transfer of the partition suit from the court of Ms. Shuchi Laler, DJ-02, East/KKD, Delhi to the court of Sh. Hem Singh, DJ-01, East/KKD, Delhi.

This transfer application is opposed by the respondents but it is an admitted fact that a dispute is relating to one and the same

property left by deceased Sh. Babu Lal. Most of the parties are same in both the proceedings. The decision of the probate court regarding the Will allegedly left by deceased Sh. Babu Lal will have direct bearing on the civil suit as the decision of the probate court is treated as judgment in rem. The question of genuineness, legality and validity of the Will dated 15.04.2019 is to be seen in both the probate case as well as in partition suit. The cause of action alleged by one party in a particular matter is a ground of defence in another case. There will be a common evidence atleast in respect of proving/disproving of the Will dated 15.04.2019.

The court of Sh. Hem Singh, DJ-01, East/KKD, Delhi is a designated court to deal with the probate matters and he is also competent to deal with the other connected cases. Counsel for petitioner relied upon decision of Hon'ble Supreme Court in case **Shamita Singha vs. Rashmi Ahluwalia T.P. (Civil) No. 1531/2018 decided on 18.06.2020 & Nirmala Devi vs. Arun Kumar Gupta (2005) 12 SCC 505** in which the Hon'ble Supreme Court directed for transfer of the probate matter and partition suits in one court.

No doubt in the probate matters, the question of ownership and title of the testator is not to be seen and considered but here in the present matters, there is no dispute that the deceased Sh. Babu Lal was the owner of the property in question. In case, it is proved that the Will executed by the deceased Sh. Babu Lal dated 15.04.2019 is genuine and validly executed, then the same will have direct impact on the partition suit and atleast relief claimed in respect of partition, declaring the Will as null and void and

injunctions will automatically become infructuous.

In such circumstances, the present transfer application is allowed and the case bearing CS No. 12/2025 pending in the court of Ms. Shushi Laler, DJ-02, East/KKD, Delhi is transferred to the court of Sh. Hem Singh, DJ-01, East/KKD, Delhi for disposal as per law. Whether both the probate matter and civil suit are to be clubbed together or to be tried separately or the civil suit is to be stayed till the disposal of the probate matter, are the questions to be decided by the court of Sh. Hem Singh, DJ-01, East/KKD, Delhi as per law and no direction is given that both the matters should be clubbed as both are at different stages.

Let the parties to appear before the transferee court on **01.04.2026**. Trial court record called from both the courts be returned alongwith the copy of this order. File of the CS No. 12/2025 be sent to the transferee court immediately.

Transfer application is disposed off and be consigned to record room.

(Ashwani Kumar Sarpal)
Principal District & Sessions Judge
East District, KKD Delhi/19.03.2026