

CS No. 181/2025

Smt. Aekta Jain (through SPA) Vs. Sh. Divas Walia

26.03.2025

Fresh suit received by way of assignment. It be checked and registered.

Present : Sh. Hitesh Bhardwaj, Ld. Counsel for the plaintiff.

1. The present suit is a suit for declaration and permanent injunction filed by the plaintiff against the defendant in respect of builtup upper ground floor of property bearing no. 101 measuring area 98 Sq. Yards situated in the layout plan of Guru Ram Dass Nagar, Laxmi Nagar in the area of village Khureji Khas, Illaqa Shahdara, Delhi-110092 (hereinafter referred to as “suit property”).

2. Ld. counsel for the plaintiff presses for application under Order XXXIX Rule 1 and 2 r/w Section 151 CPC.

3. In the present suit, the plaintiff has prayed for declaration of sale deed registered vide registration no. 2024/5/I/5528 in book no. I, Vol. no. 3510 page no. 33 to 52 dated 09.07.2024 as invalid and null and void ab-initio and illegal by averring that the sale deed has been executed in favour of defendant by impersonating Smt. Mala Jain and by using fake Aadhar card and PAN card. Plaintiff has also prayed for relief of permanent injunction in favour of the plaintiff and against the defendant restraining defendant claiming himself to the owner of the

property and also from creating third party interest in the suit property.

4. The present suit has been filed by the plaintiff through her Special Power Attorney Holder Smt. Mala Jain vide SPA dated 09.03.2025. Copy of notarized Special Power of Attorney dated 09.03.2025 in favour of Smt. Mala Jain is placed on record.

5. It is stated on behalf of the plaintiff that plaintiff is the absolute owner of property bearing no. 101 measuring area 98 Sq. Yards, out of khasra no. 25 to 53 situated in the layout plan of Guru Ram Dass Nagar, Laxmi Nagar in the area of village Khureji Khas, Illaqa Shahdara, Delhi-110092 by virtue of the registered Gift Deed executed by her husband Sh. Shashank Jain.

6. It is further stated that defendant got executed sale deed in his favour by impersonating a third person as Smt. Mala Jain with respect to the suit property.

7. It is also stated on behalf of the plaintiff that Aadhar card and PAN card as mentioned in the registered sale deed in favour of defendant is not of Smt. Mala Jain. It is further averred that Smt. Mala Jain was not in India at the relevant time when sale deed was executed and registered in favour of the defendant on 09.07.2024 as she visited the plaintiff in USA on 24.05.2024 and returned to India on 20.11.2024. It is further submitted that Smt. Mala Jain has never been the owner of the suit property nor she was ever conferred any power to transfer the suit property by its

owner i.e. plaintiff. It is further submitted that SPA on the basis of which present sale deed has been executed does not confer power on Smt. Mala Jain to execute sale deed in favour of defendant in respect of suit property.

8. It is further submitted that defendant is in the process of executing further sale documents in favour of third party with respect to the suit property and if the defendant manages to create third party interest in the suit property the plaintiff shall suffer irreparable loss which cannot be compensated in terms of money.

9. Submissions heard. Record perused.

10. There are serious allegations of forgery and fraud against the defendant including execution of sale deed by impersonating Smt. Mala Jain before concerned Sub-Registrar. Therefore, plaintiff has a prima facie case in her favour. The balance of convenience also lies in favour of the plaintiff. Further, if the defendant is not restrained from creating third party interest in the suit property, irreparable loss shall be caused to the plaintiff.

11. Therefore, the court is of the opinion that the suit property needs to be preserved till NDOH. Therefore, in the interest of justice, **the parties to the suit are directed to maintain status quo regarding the title and possession of the suit property till NDOH.**

12. Plaintiff is directed to comply the requirement of order XXXIX Rule 3 of CPC.

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13. Let summons of the suit and notice of application under Order XXXIX Rules 1 and 2 r/w Section 151 CPC be issued to the defendant on filing of PF/RC, speed post, approved courier and through all acceptable modes of services, returnable on **04.04.2025. Steps be taken within 07 working days.**

As requested, copy of this order be given dasti to Ld. counsel for plaintiff.

(SOMITRA KUMAR)
DJ-06, EAST/ KKD COURTS
DELHI/26.03.2025 ^(R)