

CS NO. 456/20
MAHESH CHAND
VS.
BHARAT SINGH RAJORE

17.11.2020

Present : Sh. Badam Singh, Ld. Counsel for the plaintiff.

Sh. G P Sharma, Ld. Counsel for the defendant.

No other party is joining the proceedings on call at
12:20 p.m.

Sh. Sharma states that he would submit certified copy of the order dated 24.09.2020 alongwith list in the court through established procedure and today itself, while supplying copy thereof to the other side immediately against receipt and his further submission is that the property in question stands vacated by the present plaintiff and now the actual physically possession of the same is with the defendant/family in terms of order dated 24.09.2020, therefore, the suit becomes infructuous. On the other hand, my attention is drawn to the prayer clause(a) of the plaint, which reads as under:-

“(a) Pass a decree of declaration in favour of the plaintiff and against the defendant thereby declaring that the suit property bearing no. 38, Gali no. 4, Radheypuri Extn-2. Delhi-110051 is the Hindu Joint family property and the plaintiff has entitled to get half share of 56 sq. yards as partition of the suit property whish is shown red colour in the site plan attached”; It is, thereupon, submitted that despite the vacation of the suit

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property, by the plaintiff, under the provisions of The Maintenance and Welfare of Parents and Senior Citizen Act, 2007/Rules framed under do oust the jurisdiction of the Civil Court but it is still available for adjudication of any dispute of civil nature and relief of declaration, coupled with Partition and Permanent Injunction is, obviously, such a relief, therefore, the plaintiff would suitably amend the plaint while moving appropriate application alongwith proposed amended plaint and requisite court fees, while supplying copies thereof in advance and against receipt to the other side.

Put up on 20.04.2021 for further consideration in the matter, till then, the defendant is directed not to alienate or otherwise part with the possession of the suit property in question or transfer it by execution of any written instrument.

Sanatan Prasad
Additional District Judge-01
(East)/KKD/Delhi/17.11.2020