

7CS 36/2011 308/21 SUMAN LATA Vs.
VIKAS KUMAR AND ORS

16.11.2024

Pr. Sh. Mohd. Zahid, Ld. Counsel with plaintiff.
Ms. Arsheen Mirza, Proxy for Sh. P.K. Rai, Ld. Counsel
for the defendants No.1, 2 and 5.
Defendant No.4 in person and states that one counsel represents the defendants No.3 and 4.

Put up at 4.00pm for further consideration in the matter.

(Sanatan Prasad)
District Judge-02 (East)
Karkardooma Courts/Delhi/16.11.2024

4.00pm

Present : None.

Matter is fixed for order on the amendment application, moved on behalf of the plaintiff. It is stated in the application after filing of the written statement by the defendants No.1,2&5, it came to the knowledge of the plaintiff that defendant No.1 is claiming, himself, to be the absolute owner of three suit properties, as mentioned in paragraph No.3 of application, which are stated to be executed by his late father Sh. Vinod Kumar in favour of the defendant No.1 and the said documents are usual papers of sale, like, GPA, Agreement to Sell, Will, Affidavit etc., dated 29.04.1997 as well as 28.03.2012, also Conveyance Deed, dated 25.06.2021. It is, further, stated that the above said documents were never executed by late Sh. Vinod Kumar in favour of the defendant No.1 and the said documents are false and are prepared just to grab the share/(s) of the plaintiff and of other legal heirs of late Sh. Vinod Kumar, who had never informed about execu-

tion of above said documents in favour of defendant No.1 or any other legal heirs. It is also stated that late Sh. Vinod Kumar resided with the plaintiff till his last breadth and thus, the alleged documents were fraudulently prepared by the defendant No.1 and thus, plaintiff prays for amendment in the title of the suit, also in paragraphs No.5,6,7,14 &16 and to add prayer clauses, as mentioned in the application.

Reply to the application has been filed on behalf of the defendants No.1,2&5, which has strongly been opposed by them and prayer is made for dismissal of the application.

Heard and perused the record.

Ms. Mirza, Ld. Counsel for the defendants No.1,2&5 has objected the amendments on the ground of improper valuation of the suit and also on account of deficient court fees, affixed on the plaint and she further submitted, that, now, the relief sought for declaration / cancellation, would entirely go to change the nature of the original suit, which is impermissible, on the other hand, Sh. Zahid, Ld. Counsel for the plaintiff has submitted that the amendments have been necessitated due to unfair denial and false defence taken by the defendants No.1,2&5 and therefore, are necessary to adjudicate the real controversy between the parties. He also submitted that defendants No.3&4 support the case of the plaintiffs and he has placed relied on a decision of Hon'ble High Court of Rajasthan in the case of **Raghuveer Dutt & Ors. v. Civil Judge, (Sr. Division), Srimadhopur, District Sikar & Ors., DOD : 02.03.2016, 2016(3) Civil Court Cases 193 (Rajasthan)** in support his case.

I have, carefully, perused the entire material available on record and I am of the view that the present application has been filed by the plaintiff after subsequent developments in the present suit, as

on the plaintiff has, initially, filed the present suit for partition and injunction, of which, written statement has been filed on behalf of the defendants No.1,2&5, in which defendant No.1 stated himself to be the absolute owner of the three suit properties, sought to be partitioned, on the basis of above mentioned documents, alleged to be executed by his late father Sh. Vinod Kumar in favour of the defendant No.1, and accordingly, the plaintiff is seeking the additional relief of declaration and cancellation, on the basis of the defence set up by the defendant No.1, in his written statement, which appears to be necessary for deciding the real controversy between the parties to the list. The case law, relied on, by the plaintiff, appears to be helpful, to him, as similarly, subsequent developments arose in that suit. Keeping in view the facts and circumstances of the case, the **amendment application stands allowed**. Amended plaint is taken on record.

Put up on **28.02.2025** for filing of written statement/(s) to the amended plaint within 30 days with copy/(s) to other side in advance and against receipt.

Even, replication, if any, may be filed.

(Sanatan Prasad)
District Judge-02 (East)
Karkardooma Courts/Delhi/16.11.2024