

**IN THE COURT OF SH. VIKAS GARG, DISTRICT JUDGE,
EAST KARKARDOOMA COURTS DELHI**

CS 576/24

CNR No. DLET01-005767-2024

Smt. Savita Sadh

W/o Late Sh. Sanjay Sadh

R/o H. No. 64, Gali No. 2, Main Shankar Nagar,

Near Shiv Mandir, Delhi – 110051

.....Plaintiff

Versus

Smt. Mani Sadh

W/o Sh. Nihar Sadh

R/o H. No. 64, Gali No. 2, Main Shankar Nagar,

Near Shiv Mandir, Delhi – 110051

.....Defendant.

Order on application u/o 12 Rule 6 of CPC:-

1. By way of the present application, the plaintiff seeks a decree of the suit on the basis of the admissions made by the defendant in the pleadings, in accordance with law.

2. The contents of the plaint and the written statement are material for the adjudication of the present application and are reproduced hereunder for ready reference:

The contents of the plaint are reproduced as follows:

“SUIT BY FOR AND ON BEHALF OF THE PLAINTIFF FOR
PARTITION
AND INJUNCTION.

MOST RESPECTFULLY SHOWETH: -

1. That the plaintiff and defendant has jointly purchased property bearing No. 17 & old no. 64(part), third floor, with roof right Gali no.2 Shankar Nagar, Near Shiv Mandir Delhi 110051 vide registered sale Deed dated 08.01.2020 duly registered at Sub-Registrar-IV b Vivek Vihar New Delhi having registration No. 10,138 in Book No. 1 Volume No. 2,132 on page no. 46 to 57 hereinafter to be referred as ‘ the property’. That both are jointly owner of the property.
2. That as per sale deed both the plaintiff and the defendant are co-owners, each holding a 50 % share of the property bearing no17 & old no. 64(part), third floor, with roof right Gali no.2 Shankar Nagar, Near Shiv Mandir Delhi 110051.
3. That the defendant is the daughter-in-law of the plaintiff. That it is submitted that the plaintiff has disinherited her son along with his family from all movable and immovable properties belonging to the plaintiff, through publication in the newspaper namely “The Sikh Times “ dated 11.09.2023.
4. That the defendant is not incurring any expenses towards the maintenance, watch and ward, house tax, etc. towards the property bearing no. no17 & old no. 64(part), third floor, with roof right Gali no.2 Shankar Nagar, Near Shiv Mandir Delhi 110051 and the plaintiff had to bear all the expenses for and on behalf of the defendant which by law defendant is bound to incur but failed to incur the same.
5. That the intention of defendant has after Execution of the sale deed became mala fide and she has started harassing the plaintiff & her son on daily basis.
6. That there are litigations pending between the plaintiff’s son and the defendant. That the defendant, who resides on the same floor, is creating harassment, annoyance, inconvenience and giving life threatening to the petitioner.
7. That the Defendant have malafide intentions and do not want to give the share of “the property” to the Plaintiff. The

Plaintiff requested to the Defendant to partition 50-50 share in the suit property on several times, but the Defendant gave no reply. That the plaintiff hereby demanded the partition 22/8/2024.

8. That the present matter is non- commercial in nature.
9. That the plaintiff has not filed any such similar proceeding and nor had previously filed similar matter.
10. That all the documents filed along with plaint are true and the authenticity of the document are here by certified.
11. That the cause of action accrued in favour of the plaintiff and against the defendant that the plaintiff and defendant both jointly purchased the property vide registered sale Deed dated 08.01.2020. the plaintiff is the owner of his 50% share in the above said property with the defendant. further when the plaintiff demanded the partition of the share in the property but the defendant failed to reply the cause of action is still continuing and subsisting in favour of the plaintiff and against the defendant.
12. That the plaintiff has several times requested the defendant to effect the partition of the suit properties by metes and bounds but the defendants are not ready and willing to give due share of the plaintiff, hence this suit.
13. That this Hon'ble court has every jurisdiction to try entertain and decide the present petition as the defendants are also resides which is within the jurisdiction of this Hon'ble court. That the suit property is also located within the jurisdiction of this Hon'ble court.
14. That the value of "the property" for purposes of valuation the suit property is valued at Rs. 50,00,000/- (Rupees fifty lakhs only) and the plaintiff was the owner of "the property" out of which the plaintiff has 1/2 share and is valued at Rs 25000/- (Rupees twenty five thousand only) with the defendant in the suit property, hence appropriate court fees has been paid on the plaint further for the relief of injunction the present suit is valued at Rs. 130 and appropriate court fees is affixed hereto.

Prayer

It is therefore respectfully prayed that:

1. A preliminary decree of partition may kindly be passed in favour of the Plaintiff giving her 1/2nd share in property bearing no. 17 & old no. 64(part), third floor, with roof right Gali no.2 Shankar Nagar, Near Shiv Mandir Delhi 110051.
 - a) A local commissioner may kindly be appointed to suggest the mode of partition.
 - b) Final decree of partition may kindly be passed after the report of the local commission is received by the Hon'ble Court.
 - c) Pass a Decree of permanent injunction in favour of the Plaintiff and against the Defendants by restraining of Defendant their agent(s), assign(s), representative(s), legal heir(s), etc. from selling, letting out, alienating, transferring, creating any third-party interest in the property bearing no 17 & old no. 64(part), third floor, with roof right Gali no.2 Shankar Nagar, Near Shiv Mandir Delhi 110051.
 - d) Exemplary costs may kindly be awarded in favour of the Plaintiff and against the Defendants.
 - e) Such other and further orders as the Hon'ble Court may deem to be fit and proper under the facts and circumstances of the present case may kindly be passed. ”

The contents of the written statement are reproduced as follows:

“WRITTEN STATEMENT ON BEHALF OF DEFENDANT.

MOST RESPECTFULLY SHOWETH:

PRELIMINARY SUBMISSIONS:

1. That plaintiff has filed the present suit for partition and injunction with the motive to harass the defendant as the son of the plaintiff has left the defendant and he has indulged in a bigamy and in this connection, the defendant has filed the petition u/s 125 CrPC against the son of the plaintiff and also filed the complaint case for bigamy which is still pending before the concerned court.

2. That it is admitted that the present floor is in the name of the plaintiff and the defendant and the same is about 80 sq. yards. The defendant and her minor daughters are residing in the said floor along with the plaintiff and the son of the defendant has already shifted to another floor with his second wife and he used to come to the said floor occasionally. The Hon'ble Family Court has fixed the ad-interim maintenance of Rs. 15,000/- which the son of the plaintiff is paying to the defendant with the school fees of the minor daughters.
3. That the said floor was purchased with the funds of the father of the defendant and the said money was given by the father of the defendant to the husband of the defendant i.e. son of the plaintiff and son of the plaintiff has transferred the said amount to the vendor. The defendant has no objection if the preliminary decree of partition has been passed.

REPLY ON MERITS:

1. That the contents of para No.1 of the suit are not denied being matter of record.
2. That the contents of para No.2 of the suit are not denied being matter of record.
3. That the contents of para No.3 of the suit are false, wrong, baseless and hence denied in toto. It is denied that the plaintiff has disinherited her son along with his family for all movable or that immovable properties belonging to the plaintiff, through publication in newspaper namely "The Sikh Times" dated 11.09.2023. It is submitted that the plaintiff has not filed any such newspaper along with the present suit. It is further submitted that there is a settled law of land that no one can be disinherited by mere publication of a notice in a newspaper.
4. That the contents of para No.4 of the suit are false, wrong, baseless and hence denied in toto. It is denied that defendant is not incurring any expenses towards the maintenance, watch and ward house tax, etc. towards the property in question. It is further denied that plaintiff had to bear all the expenses for or that on behalf of the defendant.

5. That the contents of para No.5 of the suit are false, wrong, baseless and hence denied in toto. It is denied that the intention of the defendant has after execution of sale deed became malafide or that she has started harassing the plaintiff or that her son on daily basis. It is submitted that the son of the plaintiff Nihar Sadh has residing in bigamy and he has already got married with some other girl without giving any divorce to the defendant and left the company of the defendant without any cause and reasons and in this connection, the defendant has filed the complaint case of bigamy against the son of the plaintiff and the plaintiff which is pending before the Hon'ble JMFC, Kkd Courts, Delhi and in counter blast the plaintiff has filed the present suit.
6. That the contents of para No. 6 of the suit are false, wrong, baseless and hence denied in toto. It is denied that defendant is harassing the plaintiff at any point of time.
7. That the contents of para No. 7 of the suit are false, wrong, baseless and hence denied in toto. It is denied that the plaintiff ever demanded partition of the suit property.
8. That the contents of para No. 8 to 10 of the suit not denied being matter of record
9. That the contents of para No. 11 of the suit are false, wrong, baseless and hence denied in toto. It is submitted that no cause of action has ever arisen in favour of the plaintiff or against the answering defendant at any point of time.
10. That the contents of para No.12 of the suit are false, wrong, baseless and hence denied in toto. It is denied that the plaintiff several times requested the defendant for partition of suit property at any point of time.
11. That the contents of para No.13 and 14 of the suit are not denied being matter of record.

Last paras of the suit are the prayer clauses to this Hon'ble Court, which are also wrong, false, baseless and hence denied.

It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased that the defendant has no objection if

the preliminary decree of the partition may be passed as prayed in para no. 1.

Any other relief(s), which this Hon'ble court may deem fit and proper under the facts and circumstances of the case, be also passed in favour of the answering defendant and against the plaintiff."

3. Neither has any reply to the present application been filed on behalf of the defendant, nor have any arguments been advanced.

4. From a perusal of the plaint and the written statement, it emerges as an undisputed position that the plaintiff and the defendant are each owners of an equal half share in the suit property. The written statement contains a clear and unequivocal averment that the defendant has no objection to the passing of a preliminary decree for partition. The copy of the registered sale deed is already on record, which reflects that both the plaintiff and the defendant are the vendees. Although the sale deed does not specify the respective shares of the vendees, in the absence of any such specification, both parties are deemed to hold equal shares in the property, i.e., one-half share each.

5. In view of the foregoing discussion, the application under Order XII Rule 6 CPC is hereby allowed and;

A. A preliminary decree of partition is passed in respect of the suit property, declaring that Smt. Savita Sadh (plaintiff) is entitled to $\frac{1}{2}$ share and Smt. Mani Sadh (defendant) is entitled to $\frac{1}{2}$ share therein.

B. Both the parties are further restrained from transferring, selling, mortgaging, leasing, or otherwise creating any third-party interest or encumbrance in the suit property in any manner whatsoever, and this injunction shall remain in force till the final disposal of the present case.

6. The decree sheet be drawn accordingly.

7. The application stands disposed of.

Pronounced in the Open Court

on 23rd March, 2026.

(Vikas Garg)
DJ-05/East/KKD
Delhi/23.03.2026