

04.02.2026

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

Present: Ld. Counsel for plaintiff.

1. Heard and perused the file.
2. Plaintiff herein claims to be owner of suit property and is *inter alia* seeking the relief of declaration which reads as under:

*“Pass decree of declaration that partition of suit property has already been taken place during life time parents of plaintiff and husband of defendant no 1 and partitioned the suit property as shown in the site plan attached with plaint in equal proportion share ½ in favor of plaintiff and defendant no. 1.”*

3. The aforesaid relief is premised on the ground that the suit property was the property of one Krishna Devi. She had three children namely Ashok Kumar/plaintiff, Vinod Kumar (since deceased; and who is now represented by his wife/D-1 and son Sumit Kumar), and Beena Devi. Husband of Krishna Devi is stated to have expired. I am told that parties are Hindu and it is not pleaded that Krishna Devi left any Will. This means that Krishna Devi essentially died *intestate* in 2008 and thus, her property would devolve in the share of 1/3rd each to her children.
4. Now, as per plaintiff, some partition during lifetime of Krishna Devi took place whereby plaintiff was given half share in the suit property and the other half share was to go to Vinod Kumar. Beena Devi is stated to have taken her share in the property in the form of money and gifts.

5. It is difficult to understand that how a partition can take place qua the suit property during the lifetime of Krishna Devi herself? If Krishna Devi had allowed her children to occupy different portions in the property, in law, it would only mean that Krishna Devi was allowing her children to occupy different portions in the property only as permissive users and not as its owners. After Krishna Devi died, by law, each children of Krishna Devi would get 1/3rd share in the property (presuming that her husband/Jwala Prasad had pre-deceased her). Even if Jwala Prasad died later (on 11.12.2012 as pleaded in the plaint) and he also died *intestate*, his share in the property would get equally distributed between his children which would make children of Jwala Prasad and Krishna Devi entitled to 1/3rd share each.
6. But, in the present case, plaintiff is setting up a case whereby he pleaded that a purported partition took place during lifetime of Krishna Devi and that he is entitled to half share in the property. The same appears to be not possible in the facts noted above. Let plaintiff clarify on this aspect on next date.
7. List on 16.03.2026.

AASHISH GUPTA  
DJ-01/NE/KKD/DELHI  
04.02.2026