

IN THE COURT OF SH. AASHISH GUPTA, DISTRICT JUDGE-01,
NORTH EAST, KARKARDOOMA COURTS: DELHI

CS No. 327/18
CNR No. DLNE01-004735-2018

In the matter of :-

Smt. Geeta Verma
W/o Sh. Sushil Kumar Verma
D/o Late Sh. Moti Chand Verma
R/o H. No. B-82, Gali No. 5,
Jyoti Colony, Shahdara,
Delhi-110032

.....Plaintiff

versus

1. Sh. Virender Kumar Verma
S/o Late Sh. Moti Chand Verma
R/o H. No. A-227, First Floor,
Gali No. 10, South Gamri,
Delhi-110053
2. Ravinder Verma
S/o Late Sh. Moti Chand Verma
R/o H. No. A-227, First Floor,
Gali No. 10, South Gamri,
Delhi-110053
3. Jitender Verma
S/o Late Sh. Moti Chand Verma
R/o H. No. A-227, First Floor,
Gali No. 10, South Gamri,
Delhi-110053
4. Smt. Asha Verma (**Deceased**)
W/o Sh. Shiv Kumar Verma @ Titu
Through her LRs:

4 (i) Shiv Kumar Verma (husband)
S/o Sh. Ram Surat

4 (ii) Abhishek Verma (son)

4 (iii) Risabh Verma (son)

4 (iv) Anish Verma (son)

All R/o A-228, Gali No. 10,
South Gamri, Delhi-53.

5. Smt. Sheela Verma
W/o Sh. Deepak Verma
R/o E-2/179, Gali No. 2,
4th Pusta, Near Sworn Bharti School,
Sonia Vihar, Sabhapur, Delhi-94.Defendants

Date of institution : 12.11.2018
Arguments heard on : 23.01.2026
Date of Judgment : 17.03.2026

JUDGMENT

1. Moti Chand Verma and Gulbadan Devi together had six children from their wed-lock. Three were sons (D-1 to D-3) and three were daughters (plaintiff, D-4 and D-5). Parties before this court are the said six children.
2. They together had three properties which are in dispute before this court and the details of the same are mentioned in Table-1 below:

TABLE-1				
S. No.	Property Details	Measurement	In the name of	Remarks
1.	Property-1: A-201, Gali no. 9, South Gamri, Delhi.	100 square yards	Moti Chand Verma and Gulbadan Devi.	This property was eventually found to be in the name of Gulbadan Devi only.
2.	Property-2: A-227, Gali no.10, South Gamri, Delhi.	110 square yards.	Gulbadan Devi.	This property was eventually found to measure 111 square yards.
3.	Property-3: A-228/1, Gali no. 10, South Gamri, Delhi.	60 square yards.	Moti Chand Verma.	This property was eventually found to measure 61 square yards.

3. For convenience, the properties mentioned in Table-1 above shall be referred by the property number given in the Table in the body of this judgment.
4. It is plaintiff's case that both Gulbadan Devi and Moti Chand Verma died intestate; with Gulbadan Devi dying on 28.01.2016 and Moti Chand Verma dying on 04.02.2018.
5. Thus, plaintiff claims that she has 1/6th share in each of the above described properties and has thus, sued the defendants *inter alia* for a decree of partition, consequential possession and various other injunctions.
6. She has also prayed for a declaration of her right to the extent of 1/6th share in each of the properties.
7. Additionally, she wants a declaration that Will (which D-1 to D-3 relies upon and is dated 26.06.2013) executed by Gulbadan Devi in favour of D-1 to D-3 qua property no. 1 and 2 described in Table-1 above be declared as null and void being forged and fabricated document.

Case set up by D-1 to D-3

8. D-1 to D-3 have set up a Will dated 26.06.2013 executed by Gulbadan Devi in favour of D-1 to D-3 qua property no. 1 and 2 described in Table-1 above. It is their case that on the basis of the said document, they have absolute ownership of property no.1 and 2.
9. At this stage, I may note that the said Will is a hand written unregistered document. As per the joint written statement of D-1 to D-3, this Will was discovered after the death of their father Moti Chand Verma sometime in February, 2018 from an almirah. I shall come back to this fact later.
10. With respect to property no. 3, D-1 to D-3 claim that during the lifetime of father of the parties, some oral family partition took place on 01.10.2015 whereby all the sisters were given some undisclosed cash and thus, property no. 3 came in the share of the brothers i.e. D-1 to D-3.
11. Thus, as per D-1 to D-3, they have title qua each of the three properties in dispute and they resist partition.
12. It is pertinent to note that as per D-1 to D-3, property no. 1 is in the name of Gulbadan Devi only (i.e. the mother of the parties). They dispute the fact that this property was jointly owned by Gulbadan Devi and her husband Moti Chand Verma.
13. Further, in contrast to plaintiff's claim, as per them, the area of property no. 2 is 111 square yards and not 110 square yards. Again, qua property no. 3, they claim that the area of the said property is 61 square yards and not 60 square yards.

Case of D-4

14. D-4 has joined hands with plaintiff to claim that her parents died intestate.
15. But, as per her, there was a mutual oral partition on 01.01.2015 among the legal heirs of Moti Chand when other defendants got their respective shares in other immovable properties of late Moti Chand Verma and she got property no. 3 as her share. It is pertinent to note that her written statement does not specifically specify her stand qua property no. 1 and 2 and it appears that D-4 is essentially staking a claim to property no.3 as her sole property on the ground that she got this property as her share from the assets of her parents without specifying as to how the other two properties i.e. property no. 1 and 2 were distributed *inter se* the other legal heirs of the parents of the parties.
16. In sum and substance, as per D-4, she is the sole owner of property no. 3 and wants dismissal of the suit.

Case of D-5

17. D-5 has joined hands with plaintiff to claim that her parents died intestate and she has 1/6th share in the suit properties like her other siblings.

Issues framed

18. Based on pleadings of the parties, following issues were framed vide order dated 28.07.2023, which read as under:-

Issue Nos.	Issues
(i)	<i>Whether the plaintiff is entitled for preliminary decree of partition, as prayed for ? OPP</i>
(ii)	<i>Whether the plaintiff is entitled for a decree of permanent injunction, as prayed for ? OPP</i>
(iii)	<i>Whether the defendant no.1, 2 and 3 are the absolute owner of the suit property by virtue of Will dated 26.06.2013 ? OPD1 to 3</i> <i>Additional issue framed on 23.01.2024</i>
(iv)	<i>Whether defendant no. 4 is the owner of property no. A-228/1, Gali no. 10, South Gamri, Delhi? OPD-4</i>
(v)	<i>Relief.</i>

19. I may note that the additional issue was not given any serial number and for easy reference, the same has been assigned serial no. (iv).

20. I may further note that vide order dated 23.01.2024, defendants were called upon to open their evidence first and thus, defendants led their evidence before the plaintiff which is detailed below:

S. No.	Particulars of witness	Nature of witness	Remarks
1.	DW-1/Sh. Jitender Kumar.	He is D-3. He reiterated his case by way of his affidavit in evidence Ex.DW1/A. He relief upon the following documents: 1. Will dated 26.06.2013 (Ex.DW1/1). 2. Copy of reply of notice dated 15.10.2018 and postal tracking report (Ex.DW1/2 to Ex.DW1/4). 3. Copy of electricity and water bills and house tax receipts [Ex.DW1/5 (colly. 5 pages)].	This witness appeared on behalf of D-1 to D-3 to rely upon Will dated 26.06.2013 so as to stake claim of D-1 to D-3 on property no. 1 and 2. Qua property no. 3, this witness claimed that on 01.10.2015, a mutual settlement took place whereby D-1 to D-3 paid cash to their sisters qua share in the said property. He also asserted that D-4 was allowed to occupy the property no. 3 for sometime at her request.

2.	DW-2/Sh. Dinesh Kumar Verma.	He supported the case of D-1 to D-3 by way of his affidavit in evidence Ex.DW2/A. He relied upon copy of his aadhar card (Ex.DW2/1) and Will dated 26.06.2013 (Ex.DW1/1).	He was the attesting witness to the Will (Ex.DW1/1). It may also be noted that this witness is the brother-in-law of D-3/Jitender Kumar (who stepped in the witness box as DW-1).
3.	DW-3/Sh. Anish Verma.	He is D-4(iv) (son of deceased D-4/Asha Verma). He reiterated his case by way of his affidavit in evidence Ex.DW3/A. He relied upon copy of his aadhar card (Ex.DW3/1).	This witness was called by LRs of D-4 to prove that D-4 is the absolute owner of property no. 3 based on an oral partition dated 01.01.2015.
4.	DW-4/Sh. Krishna Nand Verma.	He supported the case of D-1 to D-3 by way of his affidavit in evidence Ex.DW4/A. He relied upon copy of his aadhar card (Ex.DW4/C1)	As per his affidavit in evidence, he is stated to be a known person of D-4. As per his cross-examination, he is the first cousin of the parties before this Court with Moti Chand Verma (who is father of parties before this Court) being maternal uncle of the witness. This witness was called by LRs of D-4 to prove that D-4 is the absolute owner of property no. 3 based on an oral partition dated 01.01.2015.
5.	DW-5/Ms. Sheela Verma.	She is D-5. She reiterated her case by way of her affidavit in evidence Ex.DW5/A.	She is supporting the case of plaintiff to seek partition of all the three properties with she having 1/6th share in each one of them.

21. All the defendants' witnesses were duly cross-examined by the counsel for plaintiff.
22. Eventually, plaintiff led her evidence and examined herself as her only witness detailed below:

Particulars of witness	Nature of witness
PW-1/Ms. Geeta Verma.	Plaintiff herself. She reiterated her case by way of his affidavit in evidence Ex.PW1/A. She relied upon the following documents: 1. Site plan qua property no. 1 (Ex.PW1/1). 2. Site plan qua property no. 2 (Ex.PW1/2). 3. Site plan qua property no. 3 (Ex.PW1/3). 4. Copy of legal notice dated 18.07.2018 (Ex.PW1/4). 5. Copy of legal notice dated 14.09.2018 (Ex.PW1/5). 6. Copy of legal notice to D-4 (Ex.PW1/6).

23. Plaintiff/PW-1 was cross-examined at length by Ld. Counsel for defendants.

24. Arguments heard. Record perused.

Analysis & Finding

25. Before coming to the evidence led before this court, I may take note of certain admitted/undisputed facts between the parties.
26. It is undisputed before this court that Gulbadan Devi and Moti Chand Verma had six children (with each one of them being parties before this court). Thus, the relationship between the parties is undisputed. It is also undisputed that all the parties are Hindu by religion and governed by Hindu Law of Succession.
27. It is also an undisputed fact between the parties that property no. 2 and property no. 3 was the property of Gulbadan Devi and Moti Chand Verma respectively.
28. I may note that for property no. 2, plaintiff has asserted that the area of the same is 110 square yards. But, save and except her oral assertion, she has not filed any documents to support her said claim. On the other hand, D-1 to D-3 (through the evidence of DW-1) have proved on record documents Ex.DW1/P3 (OSR) which shows that the area of the said property is 111 square yards **and not** 110 square yards. **Thus, on the basis of said documents, the said property is found to measure 111 square yards.**
29. With respect to property no. 1, plaintiff had asserted in her plaint as well as in her evidence that this was a joint property of Gulbadan Devi and Moti Chand Verma. But, she did not produce any documentary evidence in this regard. D-1 to D-3 had asserted

that this was the property of Gulbadan Devi (mother of parties) only and was not a joint property with Moti Chand Verma (father of parties). Eventually, the original title chain of this property was produced during evidence as Ex.DW1/P-2 (OSR) [which are essentially in the nature of GPA, agreement to sell and registered receipt] and it transpires from the said documents that they are only in the name of Gulbadan Devi. **Thus, as per the said documents, the property no. 1 was the property of Gulbadan Devi only.**

30. I may note that whether property no. 1 was a joint property of Gulbadan Devi with her husband Moti Chand Verma or it was the sole property of Gulbadan Devi shall not make any difference to the case. If the same was a joint property, still, all the parties herein are children of Gulbadan Devi and Moti Chand Verma and therefore, if they both are taken to have died intestate, the parties to the suit shall have 1/6th share each in the said property.
31. But, if Gulbadan Devi was the sole owner of the property and she is taken to have died intestate, still, the parties shall have 1/6th share each in the said property. But, if the Will of Gulbadan Devi Ex.DW1/1 is proved, then only D-1 to D-3 will have share in the said property (with plaintiff, D-4 and D-5 excluded from the said Will).
32. A question qua this property being joint property may become relevant if the Will of Gulbadan Devi Ex.DW1/1 is proved. If the said Will is proved and property no. 1 is treated as joint property, then Gulbadan Devi could have only given half share of property

no. 1 to D-1 to D-3 vide Will Ex.DW1/1. The remaining half share would then go to the six legal heirs in equal share. But, this question may only arise if the Will in question is proved on record. I may note that for reasons recorded in the body of the judgment hereinafter, the said Will is found to be surrounded by various suspicious circumstances and thus, the said question shall not arise in this case.

33. Even otherwise, in the absence of any documentary evidence to the contrary and keeping in mind the document Ex.DW1/P-2 (OSR), in my opinion, this property i.e. property no. 1 was the sole property of Gulbadan Devi only.
34. I may also note that for property no. 3, plaintiff has asserted that the area of the same is 60 square yards. But, save and except her oral assertion, she has not filed any documents to support her said claim. On the other hand, D-1 to D-3 (through the evidence of DW-1) have proved on record documents Ex.DW1/P1 (OSR) which shows that the area of the said property is 61 square yards **and not 60 square yards. Thus, on the basis of said documents, the said property is found to measure 61 square yards.**
35. Now, based on the evidence led before this court, the issue-wise finding in the matter is as under:

Issue No. (iii)

(iii) *Whether the defendant no.1, 2 and 3 are the absolute owner of the suit property by virtue of Will dated 26.06.2013 ? OPD1 to 3*

36. As noted during narration facts, three properties are involved in the present matter. For ease of reference, the details of the same are being reproduced hereunder:

S. No.	Property Details	Measurement	In the name of	Remarks
1.	Property-1: A-201, Gali no. 9, South Gamri, Delhi.	100 square yards	Moti Chand Verma and Gulbadan Devi.	This property was eventually found to be in the name of Gulbadan Devi only. (see Ex.DW1/P2).
2.	Property-2: A-227, Gali no.10, South Gamri, Delhi.	110 square yards.	Gulbadan Devi.	This property was eventually found to measure 111 square yards. (see Ex.DW1/P3).
3.	Property-3: A-228/1, Gali no. 10, South Gamri, Delhi.	60 square yards.	Moti Chand Verma.	This property was eventually found to measure 61 square yards. (see Ex.DW1/P1).

37. Now, out of the above three properties, property no. 1 and property no.2 is claimed by D-1 to D-3 to have been given in bequeath to the said defendants by Gulbadan Devi vide Will dated 26.06.2016 Ex.DW1/1.

38. Thus, with respect to the said properties, D-1 to D-3 have resisted the suit claiming that they are the sole owners of the property and thus, the said properties cannot be put to partition.

39. An analysis of Ex.DW1/1 would make evident the following facts:

- i. It is a single page document.
- ii. It is written in Hindi language.

- iii. It is written from margin to margin of the entire sheet used to draw the said document.
- iv. The same is claimed to have been signed by Gulbadan Devi in Hindi language at point A which is present at the extreme right bottom of the page and the signatures of Gulbadan are *shaky (as if made by an unsteady hand)*.
- v. It has two attesting witnesses namely Dinesh Kumar Verma (whose signatures are present at point B of the said document); and Kedar Nath Prasad (whose signatures are present at point C of the said document).
- vi. The particulars of the attesting witnesses are written at the extreme left bottom of the said document.
- vii. The particulars of attesting witness Kedar Nath Prasad are written in a different handwriting than the handwriting which wrote the entire document.
- viii. The pen used to sign the document by testator/Gulbadan Devi and by attesting witness Kedar Nath Prasad is in one ink; and this ink is different in colour from the ink used to draw the rest of the document.

40. As already noted, D-1 to D-3 have set up this Will Ex.DW1/1 dated 26.06.2013 as the last Will and testament of Gulbadan Devi qua property no. 1 and 2.

41. Admittedly, Gulbadan Devi died on 28.01.2016 and it was after her death that her husband Moti Chand Verma died on 04.02.2018. This fact is undisputed between the parties.
42. Now, if one peruses the circumstances of the execution of the said Will which shall be delineated hereinafter, the Will in question is shrouded in deep suspicion and in my humble opinion, the same cannot be relied upon as a genuine document. The facts noted hereinafter would demonstrate that the propounders of the Will Ex.DW1/1 namely D-1 to D-3 have not been able to repel the suspicion surrounding the said Will. It is settled law that before any Will can be relied upon as a genuine document and be given effect as validly conveying title of the property described therein, any suspicious circumstances surrounding the said Will should be explained by the said propounders. The Will in question herein is surrounded with various suspicious circumstances and the same have neither been explained nor repelled by leading cogent evidence and therefore, the said document cannot be read to give title of property no. 1 and property no. 2 to D-1 to D-3 and therefore, the issue under consideration is liable to be decided against D-1 to D-3 and in favour of other parties.
43. The suspicion surrounding the said Will are dealt in detail hereinafter.
44. The Will in question is dated 26.06.2013 and the factum of its existence was disclosed for the first time by D-1 to plaintiff and D-5 through two separate replies to legal notice both dated 15.10.2018 sent to plaintiff and D-5 (both given Ex.DW1/2). **It is**

pertinent to note that the said replies to legal notice sent on behalf of D-1 (in response to the legal notices sent by D-5/Sheela Verma and plaintiff), D-1 for the first time claimed that property no. 1 and property no. 2 have been given by way of a Will to D-1 to D-3.

45. These replies were proved on record by D-1 to D-3 through the evidence of DW-1/Jitender Kumar Verma. It is pertinent to note that in the said replies, there is no disclosure of the manner of discovery of the said Will or disclosure of any date of the said Will. In other words, in these replies, D-1 does not disclose how he or D-2/D-3 came in possession of the said Will; or when they came in possession thereof; or where the said Will was found; or who was witness to the discovery thereof; or the date of the said Will.
46. It is merely claimed in the said replies that late Gulbadan had left property no. 1 and property no. 2 to D-1 to D-3.
47. Now, after the present suit was filed, the details of the Will were disclosed in the written statement of D-1 to D-3. They claimed that the said Will came in the knowledge of plaintiff and defendants after the death of father of the parties i.e. Moti Chand Verma.
48. This is in contradiction to the above replies in as much as the said replies Ex.DW1/2 both dated 15.10.2018 do not speak of disclosure of the existence of the said Will being brought to the notice of the three sisters i.e. plaintiff, D-4 or D-5 *after the death of Moti Chand Verma or soon thereafter.* In fact, as already noted,

the said replies are clearly silent about the time, date, place or manner of discovery of the said Will and thus, the claim of D-1 to D-3 that the three sisters had knowledge of the Will after the death of their father appears to be incorrect.

49. Admittedly, Moti Chand Verma died on 04.02.2018 and as per the joint pleadings of D-1 to D-3, the said Will was discovered from an almirah along with other documents.
50. As per the cross-examination of D-3/Jitender Kumar Verma (who deposed as DW-1) on 10.09.2024 the said Will was discovered in the last week of February, 2018 and was taken out from the almirah belonging to Moti Chand Verma in the presence of D-1 and D-2 only. The said witness admits that after the same was discovered, D-1 to D-3 **did not call** any family meeting to disclose the alleged Will in question to the three sisters and it was produced in court only on 20.11.2019 (i.e. after filing of the present suit).
51. This itself shows that the claim of D-1 to D-3 made in their joint written statement (in para 1 under the heading 'Preliminary Objections') that the Will in question came in the knowledge of plaintiff and other defendants after the death of Moti Chand Verma is contrary to the own admission of D-3 as he himself admitted in his cross-examination that after the discovery was made, the factum of its discovery was never disclosed to the three sisters and the Will was filed for the first time in court.
52. As already noted, even in the reply to the legal notices sent by plaintiff and D-5 Ex.DW1/2 dated 15.10.2018, D-1 does not speak

of any date of the Will, the time, place or manner of discovery of the Will or of any almirah belonging to late Moti Chand Verma wherefrom the said Will was discovered. This puts a question mark about the manner in which the Will is produced by D-1 to D-3 before this Court.

53. The relevant portion of the said cross-examination of DW-1/Jitender Verma is reproduced hereinafter for easy reference:

Cross of DW-1/Jitender Kumar Verma dated 10.09.2024

“.....It is correct that my father has not disclosed about any Will Ex.DW1/1 executed by my mother during his lifetime in respect of aforesaid properties. It is wrong to suggest that I do not know the names of the witnesses who had signed as a witnesses on the Will in question. It is correct that we did not call any family meeting to disclose the alleged Will in question after getting the same in the last week of February, 2018. We had filed first time the copy of Will Ex.DW1/1 on 20.11.2019. I took out the original Will from the almirah in the presence of my both brothers i.e. D-1 and D-2

It is correct that all the LRs of my mother were present at the time of her death on 28.01.2016 and thereafter on the occasion of her terahvin. My father was alive at that time. My father did not disclose about the Will Ex.DW1/1 at the time of terahvin of my mother or during his lifetime. It is correct that no detail of movable property has been mentioned in Ex.DW1/1. It is correct that no details of sale documents are mentioned in the Ex.DW1/1 on the basis of which my mother became the owner of the properties in question i.e. A-201 and A-227. It is correct that it is nowhere mentioned in Ex.DW1/1 about the fact which portion of which property shall remain with which of the D-1, D-2 or D-3. It is correct that we (D-1 to D-3) are in possession of suit properties i.e. A-201 and A-227 as per the contents of the Will Ex.DW1/1. It is wrong to suggest that we (D-1 to D-3) are in illegal possession of the portion of suit properties i.e. A-201 and A-227 as per our desire and not as per the contents of the Will Ex.DW1/1. Vol. All of us (D-1 to D-3) are residing in the suit property by birth.....

.....It is correct that we did not give any share to plaintiff and D-4 and D-5 in the aforesaid properties of my parents.....

.....One of the witness in the Will Ex.DW1/1 is father-in-law of D-2 namely Kedar Nath and another witness is my brother-in-law namely Dinesh Kumar. It is correct that both are interested witness being our relative.....”

(emphasis supplied)

54. It does not appeal to logic and reason that if D-1 to D-3 had discovered the Will in question in the almirah of their father Moti Chand Verma soon after his death, they would not disclose this fact to the three sisters either soon after the discovery or at least when D-1 was served with partition notices from plaintiff and

D-5. At least in the said reply notices Ex.DW1/2, D-1 should have disclosed the complete details about the Will including its date, the date of discovery, the manner of discovery and the place of discovery. The Will was only produced for the first time in court after the suit in question was filed.

55. It is pertinent to note that the Will in question Ex.DW1/1 was not prepared in the presence of DW-1/Jitender Kumar Verma. As per his cross-examination dated 03.05.2024, he admits that neither the said Will was prepared in his presence nor he knows where it was prepared.
56. Now, if one reads the above quoted cross-examination of DW-1/Jitender Kumar, it has come on record that both the attesting witnesses to the said Will are close relatives of D-1 to D-3. While the first attesting witness namely Dinesh Kumar Verma is the brother-in-law of Jitender Kumar; the other attesting witness namely Kedar Nath is the father-in-law of D-2/Ravinder Verma.
57. It is pertinent to note that as per the evidence of the sole attesting witness examined before this Court i.e. Dinesh Kumar Verma (DW-2) the Will in question was executed by the executant Gulbadan in property no. 2 and at that time only four persons **and no other person were present.** The said four persons were Gulbadan herself, her husband Moti Chand Verma, the witness himself i.e. Dinesh Kumar Verma and the other attesting witness namely Kedar Nath Prasad. Thus, as per the sole attesting witness, the Will in question was executed by Gulbadan in the presence of

three other persons named above.

58. It may be recalled that the Will is dated 26.06.2013 and as per para 4 of the affidavit in evidence of DW-2/Dinesh Kumar Verma (Ex.DW2/A), when the said witness had come to Delhi in the month of June, 2013 for a function in the family of Gulbadan, the Will in question was prepared at that time. At that time, witness claims to have written the Will at the request of Gulbadan which was then attested by him and the other attesting witness namely Kedar Nath.
59. During cross-examination, the function referred above is stated to be marriage anniversary of Moti Chand Verma (see cross-examination of DW-2 dated 01.04.2025 on the fourth page at bottom of the page).
60. Thus, as per DW-2, when he was invited for the marriage anniversary of Moti Chand Verma and Gulbadan in June, 2013, he was requested to draw the Will in his hand by Gulbadan and thereafter, it was attested by him and the other attesting witness namely Kedar Nath. It may be recalled that this witness is the brother-in-law of D-3/Jitender Kumar Verma (who himself deposed as DW-1) and Kedar Nath is stated to be father-in-law of D-2/Ravinder Verma (see cross-examination of DW-1 dated 10.09.2024 quoted above).
61. It can be safely assumed that for a celebration like the marriage anniversary of Gulbadan and Moti Chand Verma, at least their children i.e. the parties before this suit were present. It is very surprising that despite the presence of all the family members

during the celebration of marriage anniversary of Gulbadan and Moti Chand Verma, Gulbadan would only select brother-in-law of one of her sons to be a scribe of the Will in question and would not request her children including D-1 to D-3 to witness the drawing up of the Will.

62. As per the cross-examination of the sole attesting witness/DW-2, **he was an infrequent visitor** to the house of Gulbadan. He claims in his cross-examination that he used to visit his sister Meena Kumari (who is wife of Jitender/D-1 and daughter-in-law of Gulbadan) occasionally **after 3-5 years or during family functions.** It is very surprising that such an occasional visitor to the house of Gulbadan would be selected by Gulbadan to write down the Will in question for her.
63. Again, it does not appeal to reason that at the time of drawing of the Will in question, only four individuals i.e. Gulbadan, her husband Moti Chand Verma and two attesting witnesses i.e. DW-2/Dinesh Kumar Verma and Kedar Nath (who is also father-in-law of D-2/Ravinder Kumar) would be present. If the Will was being drawn on 26.06.2013 at the time of anniversary function of Gulbadan and Moti Chand Verma, all the parties to the suit must have been available for the said function and it does not appear reasonable that the said persons (especially D-1 to D-3 who were being given property no. 1 and property no. 2 under the Will) would not be asked to witness the said writing/drawing of Will. As already noted, DW-1/Jitender Kumar admitted during his cross-examination that the said Will was not prepared in his presence and he was not in know of the Will till it was discovered

by chance from the almirah of Moti Chand Verma in February, 2018.

64. In fact, it has come in the cross-examination of DW-2/Dinesh Kumar Verma that when the Will was being prepared, Moti Chand Verma had left the room and thereafter, the Will was prepared. It has come on record in the cross-examination of DW-2/Dinesh Chand Verma that Gulbadan was a housewife having no personal source of income. It appears highly unlikely that such a lady would not insist on presence of her husband/Moti Chand Verma to remain present in the room when she was drawing the Will in question. It is also unlikely that such a lady would not ask her sons or her daughters to be present at that time.
65. I may note that as per the evidence of DW-1/Jitender Kumar, Moti Chand Verma was working as head cashier with Delhi Jal Board; D-1 and D-2 also work for Delhi Jal Board and D-3 works as Asstt. Sub Inspector with Delhi Police. This shows that all the above individuals are educated persons and were the direct relatives of late Gulbadan. In such circumstances, it is highly unlikely that given the limited educational background and keeping in mind the social standing of Gulbadan, she would not have insisted on the presence of her husband/Moti Chand Verma or her sons to be present before drawing a document like a Will. This casts a serious doubt about the genuineness of the Will in question.
66. If one looks at the Will in question Ex.DW1/1, it would show that Gulbadan signs in Hindi with a shaky hand. The signatures of

Gulbadan at point A on Ex.DW1/1 are at the extreme right side bottom of the one page Will and the same appear to have been made by a person who is not sufficiently literate. If that be true, it is highly unlikely that Gulbadan would request an occasional visitor to her house like DW-2/Dinesh Chand Verma to draw the Will on her behalf instead of her other close relatives easily available at that time.

67. The matter can be looked at from another angle. I have already noted the nature of the Will in question. The same is reproduced even at the cost of repetition.
68. An analysis of Ex.DW1/1 would make evident the following facts:
 - i. It is a single page document.
 - ii. It is written in Hindi language.
 - iii. It is written from margin to margin of the entire sheet used to draw the said document.
 - iv. The same is claimed to have been signed by Gulbadan Devi in Hindi language at point A which is present at the extreme right bottom of the page and the signatures of Gulbadan are *shaky (as if made by an unsteady hand)*.
 - v. It has two attesting witnesses namely Dinesh Kumar Verma (whose signatures are present at point B of the said document); and Kedar Nath Prasad (whose signatures are present at point C

of the said document).

- vi. The particulars of the attesting witnesses are written at the extreme left bottom of the said document.
 - vii. The particulars of attesting witness Kedar Nath Prasad are written in a different handwriting than the handwriting which wrote the entire document.
 - viii. The pen used to sign the document by testator/Gulbadan Devi and by attesting witness Kedar Nath Prasad is in one ink; and this ink is different in colour from the ink used to draw the rest of the document.
69. The said Will, on the face of it, appears to be highly suspicious and does not satisfy the judicial conscious of this Court as being validly executed by late Gulbadan within the meaning of Section 63 of Indian Succession Act, 1925.
70. The above noted facts would raise a strong suspicion in the mind of any reasonable person about the authenticity, genuineness and due execution of the Will in question. If the said Will was validly drawn, executed and attested, it does not appeal to reason as to why the same is written **from margin to margin on the entire sheet of paper used to draw the said document.** A perusal of the said Will would show that there is no space left for margins while drawing the Will and every square inch of the sheet of paper used to draw the Will has been used for preparing the same. If the said Will was being actually drawn by Gulbadan, there was no need

for her to draw the same in this manner as she could have utilized other sheets of paper also to draw a properly drafted Will. It raises a strong suspicion in the mind of this court that possibly an already signed paper was used to prepare the Will in question *post facto* and it was not drawn in the manner alleged by D-1 to D-3.

71. Again, the pen used to sign the document by testator/Gulbadan Devi and by attesting witness Kedar Nath Prasad is in one ink; and this ink is different in colour from the ink used to draw the rest of the document. This again raises a doubt in the mind of the court on the need thereof. If the Will was being written and drawn in the manner claimed, why two different inks have been used?
72. There is no explanation given in the Will as to why Gulbadan/executant of the Will was leaving out her husband Moti Chand Verma from the two properties covered under the Will. It appears highly unlikely that a Will which was being drawn in the presence of Moti Chand Verma on 26.06.2013 would leave out Moti Chand Verma himself from the Will in question. Moti Chand Verma is the husband of Gulbadan and why would a housewife, who is celebrating her marriage anniversary at that time, would actually leave out her own husband from the bequeath?
73. It appears highly suspicious that a semi-literate lady who is a housewife and has no source of income would sign the said Will on her own without assigning any reason of leaving out her husband from the bequeath and that too when she herself is celebrating her marriage anniversary with the husband on the day of drawing of the Will. The date of drawing of the Will become

relevant because it suggests that Gulbadan and Moti Chand Verma were having good relationship on the day when the Will was drawn. If that be true, it appears highly unlikely that she would omit to give anything to her husband in the Will in question.

74. The same is only possible if the Will in question was drawn at a later time by using a blank paper having signatures of Gulbadan. This inference gets credence from the manner in which the Will is written on a single sheet of paper utilizing every square inch of the sheet of paper used to draw the said Will. This coupled with the placement of signatures of Gulbadan (which is at the extreme right corner bottom of Ex.DW1/1) gives further credence to the above inference.
75. The above coupled with the fact that the scribe of the Will is an interested witness with he being admittedly the brother in law of D-1/Jitender Kumar further raises strong suspicion in the mind of the court qua the authenticity and genuineness of the Will in question. It may be recalled that he is a occasional visitor to the house of Gulbadan which further raises a suspicion as to whether he was actually asked by Gulbadan to be a scribe of the Will or to attest it.
76. There is another aspect to the matter. The Will in question is stated to have been discovered by chance from the almirah of late Moti Chand Verma in February, 2018 (after his death). The Will is dated 26.06.2013. Thus, for about five years after the execution of the Will, none of the four persons who were party to its preparation disclosed about it to anybody.

77. It is very surprising that after the Will in question was drawn on 26.06.2013, neither of the attesting witnesses i.e. DW-2/Dinesh Kumar Verma or Kedar Nath disclosed about the said Will to any of the brothers i.e. D-1 to D-3. This was more so when Gulbadan died on 28.01.2016. At that time, admittedly, all the children of Gulbadan were present and there was an occasion for either of the witness to disclose the existence of the said Will to the said children.
78. **It is further very surprising that even after the death of Moti Chand Verma on 04.02.2018, witness DW-2 never disclosed about the Will to his own brother-in-law/D-1. It is pertinent to recall that as per the case set up by D-1 to D-3, they discovered the Will in question from the almirah of their father. This means that even after the death of Moti Chand Verma, the factum of execution of the Will was not disclosed by DW-2 to his own brother-in-law or to the other children/parties.**
79. Similarly, it is very surprising that the other attesting witness namely Kedar Nath would not disclose about the same to any of the children about the Will and the Will would only be discovered from an almirah as a matter of chance.
80. **It is also very surprising that after Gulbadan died, even Moti Chand Verma did not disclose about the Will to his own children.**
81. Admittedly, as per testimony of DW-2/Dinesh Chand Verma, the Will was prepared in the knowledge of Moti Chand Verma. If the same is true, it is highly unlikely that he would not disclose this fact to his sons or daughters and would leave the Will to be

discovered as a matter of chance. This is even after his wife died on 28.01.2016. If such a Will existed, at least Moti Chand Verma would have disclosed about the same to his three sons so as to allow the said sons to utilize the two properties covered under the Will as per the last wish of Gulbadan.

82. The theory of chance discovery of Will does not appear reasonable and appears manufactured which seriously dents the authenticity of the Will.
83. Now, before proceeding further, I may quickly reproduce the relevant provisions dealing with the validity and execution of a Will which read as under:-

“Section 63 of the Indian Succession Act, 1925

Execution of unprivileged wills Every testator, not being a soldier employed in an expedition or engaged in actual warfare, or an airman so employed or engaged, or a mariner at sea, shall execute his Will according to the following rules:

(a) The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

(b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

(c) The Will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or the signature of such other person; and each of the witnesses shall sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Section 68 of Indian Evidence Act 1872

Proof of Execution of document required by law to be attested If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence: xxx”

84. A bare reading of the above mentioned provisions would show that the requirements enshrined under Section 63 of the

Succession Act have to be categorically complied with for the execution of the Will to be proven in terms of Section 68 of the Evidence Act. Now, while dealing with the law on the subject, the Hon'ble Supreme Court of India has noted in the case of '**Meena Pradhan & Ors Versus Kamla Pradhan & Anr 2023 INSC 847**' that *"a Will is an instrument of testamentary disposition of property. It is a legally acknowledged mode of bequeathing a testator's property during his lifetime to be acted upon on his/her death and carries with it an element of sanctity. It speaks from the death of the testator. Since the testator/testatrix, at the time of testing the document for its validity, would not be available for deposing as to the circumstances in which the Will came to be executed, stringent requisites for the proof thereof have been statutorily enjoined to rule out the possibility of any manipulation."*

85. In the said case, the Hon'ble Supreme Court of India took note of various judgments which dealt with the validity of a Will and thereafter, enumerated various points to be considered while dealing with a Will and its validity. The said observations are quoted hereinafter for easy reference:-

"Relying on H. Venkatachala Iyengar v. B.N. Thimmajamma, 1959 Supp (1) SCR 426 (3 Judge Bench), Bhagwan Kaur v. Kartar Kaur, (1994) 5 SCC 135 (3 Judge Bench), Janki Narayan Bhoir v. Narayan Namdeo Kadam, (2003) 2 SCC 91(2 Judge Bench) Yumnam Ongbi Tampha Ibema Devi v. Yumnam Joykumar Singh, (2009) 4 SCC 780 (3 Judge Bench) and Shivakumar v. Sharanabasappa, (2021) 11 SCC 277 (3 -

Judge Bench), we can deduce/infer the following principles required for proving the validity and execution of the Will:

i. The court has to consider two aspects: firstly, that the Will is executed by the testator, and secondly, that it was the last Will executed by him;

ii. It is not required to be proved with mathematical accuracy, but the test of satisfaction of the prudent mind has to be applied.

iii. A Will is required to fulfill all the formalities required under Section 63 of the Succession Act, that is to say:

*(a) **The testator shall sign or affix his mark to the Will or it shall be signed by some other person in his presence and by his direction and the said signature or affixation shall show that it was intended to give effect to the writing as a Will;***

(b) It is mandatory to get it attested by two or more witnesses, though no particular form of attestation is necessary;

(c) Each of the attesting witnesses must have seen the testator sign or affix his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of such signatures;

(d) Each of the attesting witnesses shall sign the Will in the presence of the testator, however, the presence of all witnesses at the same time is not required;

iv. For the purpose of proving the execution of the Will, at least one of the attesting witnesses, who is alive, subject to the process of court, and capable of giving evidence, shall be examined;

v. The attesting witness should speak not only about the testator's signatures but also that each of the witnesses had signed the will in the presence of the testator;

vi. If one attesting witness can prove the execution of the Will, the examination of other attesting witnesses can be dispensed with;

vii. Where one attesting witness examined to prove the Will fails to prove its due execution, then the other available attesting witness has to be called to supplement his evidence;

*viii. **Whenever there exists any suspicion as to the execution of the Will, it is the responsibility of the propounder to remove all legitimate suspicions before it can be accepted as the testator's last Will. In such cases, the initial onus on the propounder becomes heavier.***

*ix. **The test of judicial conscience has been evolved for dealing with those cases where the execution of the Will is surrounded by suspicious circumstances. It requires to consider factors such as awareness of the testator as to the content as well as the consequences, nature and effect of the dispositions in the Will; sound, certain and disposing state of mind and memory of the testator at the time of execution; testator executed the Will while acting on his own free Will;***

*x. **One who alleges fraud, fabrication, undue influence et cetera has to prove the same. However, even in the absence of such allegations, if there are circumstances giving rise to doubt, then it becomes the duty of the propounder to dispel such suspicious circumstances by giving a cogent and convincing explanation.***

*xi. **Suspicious circumstances must be 'real, germane and valid' and not merely 'the fantasy of the doubting mind'. Whether a particular feature would qualify as 'suspicious' would depend on the facts and circumstances of each case. Any circumstance raising suspicion legitimate in nature would qualify as a suspicious circumstance. For example, a shaky signature, a feeble mind, an unfair and unjust disposition of property, the propounder himself taking a leading part in the making of the Will under***

which he receives a substantial benefit, etc.

In short, apart from statutory compliance, broadly it has to be proved that

(a) the testator signed the Will out of his own free Will,

(b) at the time of execution he had a sound state of mind,

(c) he was aware of the nature and effect thereof and

(d) the Will was not executed under any suspicious circumstances.”

(emphasis supplied)

86. It is settled law that before a Will can be taken to be duly executed and be acted upon, the requirements of Section 63 of Indian Succession Act, 1925 are required to be proved on record by the propounder of the Will. The propounder of the Will should also remove any suspicion surrounding the due execution of the Will before the same can be acted upon.
87. In the present case, the nature of the Will noted in the preceding paragraphs raises a strong suspicion in the mind of this Court about the genuineness of the Will. The circumstances noted above leading to the execution of the Will (as alleged by the propounders i.e. D-1 to D-3) also raises a grave doubt about the due execution of the Will. The manner of discovery being set up by the propounders also raises strong suspicion about its authenticity.
88. The propounders have not led any evidence to dispel the strong suspicion surrounding the Will noted in preceding paragraphs. If I take a holistic view of the circumstances noted above, the judicial conscious of this court leans in favour of holding that the said Will is surrounded by deep and grave suspicion and possibly the said Will is not the Will actually executed by Gulbadan at all after knowing the contents thereof. The attesting witnesses are all close relatives of the propounders who are not natural witnesses who may have been asked to attest the Will in question.

89. Thus, in my humble opinion, since the propounders/D-1 to D-3 have failed to dispel the strong suspicion surrounding the Will in question, the said Will cannot be taken to have been duly proved on record so as to allow the said defendants to rely upon the same.
90. Thus, the said Will is held to have not been duly proved on record, as per law and thus, the same cannot give right, title or interest to D-1 to D-3 qua property no. 1 and property no. 2 (to the exclusion of the three sisters i.e. plaintiff, D-4 or D-5).
91. Accordingly, the issue under consideration is decided against D-1 to D-3.

Additional issue no. (iv)

(iv) Whether defendant no. 4 is the owner of property no. A-228/1, Gali no. 10, South Gamri, Delhi? OPD-4

92. D-4 has claimed sole ownership of property no. 3 on the ground that there was a purported mutual oral partition on 01.01.2015 whereby all the legal heirs of late Moti Chand Verma agreed that D-4 shall take property no. 3 and the other legal heirs of late Moti Chand Verma would not have any right, title or interest in the said property.
93. D-4 died before she could step in the witness box to prove the said fact.
94. In her lieu, one of her sons namely Anish Verma (DW-3) and one Krishna Nand Verma (DW-4; who is also the first cousin of the parties before this Court) came in the witness box to prove the above fact.

95. Anish Verma/DW-3 during his cross-examination admitted that on 01.01.2015 he was about 13/14 years of age and he was not present in any meeting held on that day. He further admitted in his cross-examination that he is not aware as which all persons attended the meeting dated 01.01.2015. He claimed in his cross-examination that his mother had told him that plaintiff, her sister Sheela Devi and the other three brothers had already got their shares and cash in the meeting held on 01.01.2015.
96. Once Anish Verma/DW-3 admitted that he was not present for the meeting dated 01.01.2015, he cannot be taken to be a witness of any fact which transpired during the said meeting. This is presuming that such a meeting actually took place on 01.01.2015. The mere claim of DW-3/Anish Verma that his mother orally told him that other parties to the suit (except D-4/mother of DW-3) have taken share in other properties and cash shall not be sufficient to give complete title over property no. 3 to D-4. Before D-4 could be taken to have got complete title over property no. 3, it was necessary for D-4 to prove that by way of a family settlement, the said property came to her share. Clearly the evidence of DW-3 is not sufficient to prove this fact.
97. It may be recalled that on 01.01.2015 both Moti Chand Verma and his wife Gulbadan were alive. Property no. 1 and property no. 2 have been found to be the properties of Gulbadan; while property no. 3 is admittedly in the name of Moti Chand Verma. Thus, on 01.01.2015 neither of the children of Moti Chand Verma and Gulbadan had any crystallized right in the said three properties. At best, they had a mere hope to succeed (*spes successionis*) to the said

properties on 01.01.2015.

98. On the said date, parties to the suit could not have settled amongst themselves the three properties as in the said three properties, they had no right, title or interest and only had a mere hope to succeed.
99. Again, even if I presume that on 01.01.2015 any meeting between the parties to the suit and Moti Chand Verma took place and Moti Chand Verma allowed D-4 to occupy property no. 3 with other properties being occupied/used by D-1 to D-3 (with plaintiff and D-5 already married and occupying their respective matrimonial houses) even then, such permission given by Moti Chand Verma cannot make D-4 the absolute owner of property no. 3. It may, at best, mean that Moti Chand Verma simply allowed permissive user to D-4 to occupy the said property and nothing more. If Moti Chand Verma wanted to divest his ownership rights in favour of D-4 (to the exclusion of his other children or to the exclusion of his wife or even to his own exclusion), it was necessary for him to execute a registered relinquishment deed or gift deed which would then take effect and give complete ownership over the said property to D-4. Admittedly, there is no such document in favour of D-4.
100. Thus, in the absence of any such document, D-4 cannot be treated to have been agreed/settled as owner of property no. 3.
101. In fact, the meeting dated 01.01.2015 is itself doubtful as the other parties to the suit dispute the factum of any such meeting or any oral partition effected on the said date.
102. If one reads the cross-examination of DW-1/Jitender Kumar Verma, he, during his cross-examination, claims that he has no knowledge

of any meeting to have taken place on 01.01.2015. Plaintiff also disputes any such meeting. Similar is the stand of D-5. Thus, it is highly doubtful that any meeting or partition took place on 01.01.2015 whereby D-4 was given property no. 3 as her share in the assets of Moti Chand Verma/Gulbadan. Even if any such meeting is presumed to have taken place, the same shall not make D-4 the owner of the said property for reasons already noted above.

103. I may note that the other witness produced on behalf of D-4 was one Krishna Nand Verma. This witness, during his cross-examination, claimed that he does not know the contents of page no. 1, 2 and 3 of his affidavit in evidence. The said three pages contain the assertion of an oral family partition dated 01.01.2015 (being set up by D-4 as the basis of her claim of ownership of property no. 3). Now if, this witness is not aware of the facts stated in the affidavit, his testimony cannot be read to give any right, title and interest in property no. 3 to D-4.
104. Thus, the issue under consideration is decided against D-4.

Issue no. (i)

- (i) *Whether the plaintiff is entitled for preliminary decree of partition, as prayed for ? OPP*

105. For reasons given while deciding issue no. (iii) and (iv) above, all the three properties in dispute herein are available for partition.
106. I may note that D-1 to D-3 had relied upon the Will Ex.DW1/1 to resist partition of property no. 1 and property no. 2. The said Will

has not been proved on record.

107. For property no. 3, D-1 to D-3 had set up a case claiming that some mutual partition had taken place among the legal heirs of Moti Chand Verma on 01.10.2015 whereby all the sisters had been paid *cash for their shares*. Suffice is to say that on the said date, Moti Chand Verma and Gulbadan were alive and thus, the three brothers could not have settled the shares of their sisters in the three properties as on that day, they had not right, title or interest in the said three properties and they had a mere hope to succeed. Even otherwise, save and except the bald claim of oral partition where-under some unspecified amount was paid to the three sisters, no particulars like the exact amount paid to each of the sister, the manner in which it was paid, the time when it was paid or the persons who witnessed the said payment is missing in the evidence of D-1 to D-3.
108. Yet again, D-1, during his cross-examination, went on to say that he did not claim in the written statement that a meeting for partition took place on 01.10.2015. This is contrary to the case set up by D-1 to D-3 in their joint written statement. This itself makes the claim of D-1 to D-3 qua an oral partition dated 01.10.2015 qua property no. 3 highly doubtful. It may be recalled that D-4 had set up her own claim on the same property based on an oral partition dated 01.01.2015 which is also at odds to the claim of D-1 to D-3 of an oral partition dated 01.10.2015.
109. Be that as it may in my humble opinion, the bald and vague claim of D-1 to D-3 that they paid money to the three sisters qua

property no. 3 cannot be believed to give them complete right, title or interest over the said property.

110. D-4's independent claim over property no. 3 has already been declined while deciding issue no. (iv).
111. In effect, all the three properties in dispute are available for partition between the six legal heirs of Moti Chand Verma and Gulbadan. As already noted, it is not disputed between the parties that they are governed by Hindu Law of Succession or their *interse* relationship. Thus, in my humble opinion, each of the six children of Gulbadan and Moti Chand Verma are entitled to 1/6th share each in each of the three properties. For easy reference, the same is reflected in Table below:

TABLE-2				
S. No.	Property Details	Measurement	In the name of	Share
4.	Property-1: A-201, Gali no. 9, South Gamri, Delhi.	100 square yards	Gulbadan Devi.	Each of the parties to the suit are entitled to 1/6th share each in each of the property. Since D-4 died during the pendency of the suit, her share in the properties shall go to her class-I legal heirs i.e. D-4(i) to D-4(iv). It is not the case of said legal heirs of D-4 that D-4 has left behind any Will and thus, her share shall be jointly taken up by all the said legal heirs in each of the properties.
5.	Property-2: A-227, Gali no.10, South Gamri, Delhi.	111 square yards.	Gulbadan Devi.	
6.	Property-3: A-228/1, Gali no. 10, South Gamri, Delhi.	61 square yards.	Moti Chand Verma.	

112. Let a preliminary decree of partition be drawn accordingly. The issue is accordingly decided.

Issue no. (ii)

(ii) *Whether the plaintiff is entitled for a decree of permanent injunction, as prayed for ? OPP*

113. Since plaintiff has been found to have 1/6th share in each of the three properties, defendants are liable to be restrained from creating any third party interest in each of the three properties to the extent of her share till the said three properties are divided by metes and bounds.
114. Plaintiff has sought the prayer of permanent injunction (see prayer 5 of the plaint) only against D-1 to D-4. Accordingly, plaintiff is held to be entitled to a decree of permanent injunction restraining the D-1 to D-4 or any persons claiming through or under them from selling, transferring, alienating or parting with possession or from creating any third party interest or making any addition/alteration in any of the three suit properties to the extent of plaintiff's share in the said three properties till the same are divided by metes and bounds.
115. The issue is decided accordingly in favour of the plaintiff.

Relief

116. In view of the findings returned above, plaintiff is held entitled to following reliefs:
- i. Plaintiff is entitled to a declaration in her favour thereby declaring that she has 1/6th share each in each of the three property described in Table-3 below.

- ii. Plaintiff, D-1 to D-3, D-4 [through D-4(i) to D-4(iv)] and D-5 are entitled to 1/6th share each in each of the three properties described in Table-3 below.
- iii. Plaintiff is held to be entitled to a decree of permanent injunction restraining the D-1 to D-4 or any persons claiming through or under them from selling, transferring, alienating or parting with possession or from creating any third party interest or making any addition/alteration in any of the three suit properties to the extent of plaintiff's share in the said three properties till the same are divided by metes and bounds.

TABLE-3				
S. No.	Property Details	Measurement	In the name of	Share
1.	Property-1: A-201, Gali no. 9, South Gamri, Delhi.	100 square yards	Gulbadan Devi.	Each of the parties to the suit are entitled to 1/6th share each in each of the property. Since D-4 died during the pendency of the suit, her share in the properties shall go to her class-I legal heirs i.e. D-4(i) to D-4(iv). It is not the case of said legal heirs of D-4 that D-4 has left behind any Will and thus, her share shall be jointly taken up by all the said legal heirs in each of the properties.
2.	Property-2: A-227, Gali no.10, South Gamri, Delhi.	111 square yards.	Gulbadan Devi.	
3.	Property-3: A-228/1, Gali no. 10, South Gamri, Delhi.	61 square yards.	Moti Chand Verma.	

117. Parties to bear their own costs.

118. I may note that plaintiff had also sought the consequential relief of possession (see prayer 2). The same cannot be granted to the plaintiff at this stage as before the consequential possession can be granted to the plaintiff to the extent of her share, an inquiry shall have to be conducted on the manner how each of the three properties are to be finally divided by metes and bounds. Thus,

the said relief has to be deferred awaiting drawing up of final decree of partition.

119. I may also note that plaintiff had also sought a declaration against D-1 to D-4 (see prayer 4) for “*declaring the alleged Will (if any) as null and void being forged and fabricated document, about which, defendant no. 1 stated in his reply dated 15.10.2018*”. The Will being referred to herein is the disputed Will Ex.DW1/1 which has been found to be a suspicious document. I may note that no specific issue qua the said Will being a forged document was pressed for or framed in this case at the time of framing of issues. Even otherwise plaintiff did not lead any evidence to suggest that the signatures present on the Will in question are actually forged signatures of Gulbadan. But, for reasons already recorded in the body of this judgment, the said Will has been found to have not been proved because of the suspicion surrounding the said Will.
120. Thus, the said relief of declaration that the said Will is a forged document and therefore, it is null and void, is declined as the said issue was never framed and there is no evidence qua the same on record. But, the said Will shall still not help the D-1 to D-3 for reasons already noted in the body of this judgment.
121. Let a preliminary decree sheet be prepared accordingly.

**Announced in the open court
on 17.03.2026**

**Aashish Gupta
District Judge-01, North-East
KKD Courts, Delhi**