

**ARUNA THAKUR AND ORS Vs. ARVIND KUMAR SHARMA
AND ORS.**

28.07.2025

Present: Sh. Honey Taneja, Ld. Counsel for the plaintiffs.
Sh. Dinesh Kumar Malhotra, Ld. Counsel for the
defendant no.1 (through VC).
Sh. Ujjwal Jain, Ld. Counsel for defendants no.2 to
6 (through VC).

Arguments heard on the application U/o 1 Rule 10(2)
CPC from both the sides filed on behalf of defendants no.2 to 6 for
seeking transposition as plaintiffs in the present suit.

It is submitted by Ld. Counsel for defendants no.2 to 6
that plaintiffs no.1 and 2 are claiming exclusive rights in the first floor
of the property bearing H. No.22, AGCR Enclave, Delhi - 92 on the
basis of an unregistered GPA, Agreement to Sell, affidavit and cash
payment receipts dated 05.04.2010, allegedly executed by Late Smt.
Godavari Bai Thakur during her lifetime in favour of her son Late Sh.
R. K. Thakur.

It is also submitted by Ld. Counsel for defendants no.2
to 6 that the above unregistered GPA, Agreement to Sell, affidavit and
cash payment receipts dated 05.04.2010 were forged and fabricated
and the plaintiffs do not get any exclusive rights in the first floor of
the said property.

It is further submitted that plaintiffs no.3 to 5 are
occupying the ground floor of the said property and the defendants
no.2 to 6 also have equal rights in the entire property being the LRs of
Late Sh. Arun Kumar Thakur.

Ld. Counsel for the plaintiffs does not dispute that the
suit property earlier belonged to Late Sh. Balram Singh Thakur, who
thereafter admittedly executed a registered Will dated 03.10.1996 in
favour of his wife, Late Smt. Godavari Bai Thakur, who died intestate

leaving behind her four sons namely Sh. R. K. Thakur, Sh. Arun Kumar Thakur, Sh. Virender Kumar Thakur and Sh. Pradeep Thakur and all the sons including their LR's have equal rights in the said property except the first floor, which was specifically given to Sh. R. K. Thakur by his mother Late Smt. Godavari Bai Thakur vide GPA, Agreement to Sell, affidavit and cash payment receipts dated 05.04.2010.

Admittedly, the defendants no.2 to 6 have not filed any suit for seeking the relief of declaration w.r.t. GPA, Agreement to Sell, affidavit and cash payment receipts dated 05.04.2010 as null and void since the year 2020.

Even otherwise, the present suit is not w.r.t. the adjudication of rights qua the suit property between the plaintiffs and defendants no.2 to 6, and the adjudication in the present suit would not affect the rights of the parties to seek relief of partition qua the suit property as per law, and the present suit has been filed by the plaintiffs only to seek damages from defendant no.1 w.r.t. the damage in the property pursuant to the construction activities carried out by defendant no.1 in the adjacent property.

In view of the same, the application U/o 1 Rule 10(2) CPC filed on behalf of defendants no.2 stands dismissed.

At this stage, it is submitted by Ld. Counsel for plaintiffs that plaintiffs also have a registered Will w.r.t. the first floor of the said property executed by Late Smt. Godavari Bai Thakur and undertakes to file the same on NDOH.

Put up for further proceedings on 12.11.2025.

(Ankur Jain-II)
DJ-02, SHD District
KKD/Delhi 28.07.2025