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CS DJ 57/22

TARUNA MALIK Vs. EKTA GUPTA

06.08.2022

Present: Sh. Amit Sindhuja with Ms. Simran, Ld. Counsels for plaintiff.

Sh. Gagandeep Singh, Ld. Counsel for defendant no. 1.

Sh. Anand Prakash, Ld. Counsel for defendant no. 2.

Fresh Vakalatnama filed on behalf of defendant no. 1.

Replication to the written statement of defendant no. 1 and 2 is filed. Copy is supplied.

The written statement filed by defendant no. 2 on 09.05.2022 is taken on file. No document in original is filed.

The counsel for the plaintiff prays for direction to defendant no. 1 to file the documents in original whose photocopy have been filed with written statement. Ld. Counsel for defendant no. 1 seeks opportunity to file the original documents till next date of hearing.

Reply to application under Order 7 rule 11 CPC of defendant no. 1 is also filed.

By way of application, the issue of valuation of the matter

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for the purpose of court fees is raised. The contention is being considered for the settlement of issues.

Submissions heard on the settlement of issues.

From the submissions and pleadings of the parties, following issues are framed as arises:-

(1) Whether Sh. Tilak Raj Vohra erstwhile owner of the suit property executed Will dated 17.08.2005 in favour of Sh. Kamal Vohra, husband of defendant no. 1, if so, its effect on the suit ? OPD-1

(2) If issue no. 1 is decided in favour of plaintiff and it is found that Sh. Tilak Raj Vohra died intestate then what is the share of parties in the suit property ? OPP

(3) Whether the plaintiff is ousted from the possession of the suit property, as such, the valuation of the suit for the purposes of court fees is not proper as claimed by defendant no. 1 ? OPD-1

(4) Whether the plaintiff is entitled for decree of permanent injunction as claimed ? OPP

(5) Relief.

No other issue arises or pressed for. The counsels appearing for the parties stated that there is no likelihood of the settlement of matter between the parties at this stage, as such, there is no use of referring the parties to adopt ADR means. List of witnesses be filed within 15 days by the parties.

Ld. Counsel for plaintiff contends that the defendants be asked to lead the evidence first as onus is upon them that Will was

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executed by owner of the suit property and if the said issue is decided in favour of defendants, then plaintiff will have no share in the suit property. Reliance is placed upon cases titled as Vinod Kumar Abrol & Ors Vs Chander Mohan Anand & Ors, CS(OS) 163/2017 , decided on 18.01.2019 and Sheetal Sawhney Vs Naresh Sawhney & Anr, CS (OS) 558/2017, decided on 01.05.2018 by Hon'ble High Court of Delhi.

Considering the facts and the case laws, the defendants to lead the evidence first. As such, put up for defendant's evidence for **03.12.2022**. The chief examination of witnesses will be by way of affidavit and advance copy of same be supplied to opposite party/counsel at least 15 days prior to next date of hearing.

(SUNIL CHAUDHARY)
ADJ-04/North-West
RHC/Delhi 06.08.2022