

29.07.2024

At 12:14pm

Present: Sh. Yash Sampat Ld. Counsel for the plaintiff
through VC.
Sh. Manish Bhadoriya, Ld. Counsel for the
defendant and proposed defendant through VC.
Defendant in person.

Matter is listed for arguments on the application
under Order I Rule 10(2) CPC.

As per the report from mediation, matter returned
back as “unsettled”.

It is submitted by Ld. counsel for plaintiff that an
application under Order I Rule 10(2) CPC is pending for
adjudication.

Ld. counsel for plaintiff submits that by way of the
present application under Order I Rule 10(2) CPC, plaintiff wants
to implead Nasim Begum (wife of D-1) as D-2 because D-1 in
his WS has pleaded that he has already transferred the suit
property in favour of his wife vide registered GPA dated
21.01.2019, notarized Gift Deed, possession letter & family Will
all dated 21.01.2019. It is further submitted that the parties are
Muslims and governed by the Muslim Law. It is further
submitted that under Muslim Law, a muslim person can transfer
his property even by way of oral Gift. He further submits that the
transfer of immovable property by a muslim is not subject to the

(2)

provisions of Transfer of Property Act, 1882. He further submits that at present Nasim Begum is in physical possession of the suit property and therefore, she is a necessary party in the present suit.

Ld. counsel for D-1 and proposed defendant, on instructions submits that D-1 has transferred the suit property to his wife namely Nasim Begum on 21.01.2019, however, the present suit was filed on 15.04.2019. He further submits that the present suit is not maintainable in the eyes of law and is a gross misuse of process of law. He further submits that the present application as well as suit be dismissed.

Heard.

File perused.

It is not in dispute that the suit property has been transferred by D-1 in favour of his wife namely Nasim Begum on 21.01.2019. Plaintiff has filed the present suit for possession and it is admitted by D-1 that presently Nasim Begum is in actual and physical possession of the suit property.

In view of the circumstances, this court is of the view that no effective decree can be passed in the absence of Nasim Begum, therefore, Nasim Begum is a necessary party in the present suit.

In view of the submissions, contentions made in the application and in view of the above-observations, the application under Order I Rule 10(2) CPC for impleading Nasim Begum as party in the present matter stands **allowed and Nasim Begum is impleaded as D-2 in the present matter.**

(3)

Application under Order I Rule 10(2) CPC is accordingly disposed of.

Plaintiff is directed to file amended memo of parties within 15 days from today with an advance copy to defendants.

D-2 is directed to file WS and affidavit of admission and denial of documents within 30 days from today with an advance copy to the plaintiff.

Upon receipt of WS and affidavit of admission and denial of documents, plaintiff is at liberty to file replication, if any and affidavit of admission and denial of documents, if required within 15 days thereafter with an advance copy to D-2.

Plaintiff is also at liberty to file replication to the WS of D-1, if any within 45 days from today with an advance copy to D-1.

Parties are directed to produce original documents and file proposed issues on or before the NDOH.

Parties are also directed to appear in person on the NDOH.

Put up for compliance, completion of pleadings, admission and denial of documents and framing of issues on **22.10.2024.**

Date is given as per the convenience of Ld. counsels.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
29.07.2024