

20 CS 2125/16

**NARENDER KUMAR VASHISHT AND ORS Vs. SMT ANITA
SHARMA**

**11.03.2025
AT 02:16 PM**

One regular Stenographer is on medical leave. No substitute stenographer has been provided.

Present: Sh. Varun Ahuja, Ld. Counsel for plaintiffs
through VC.
Ld. R.N. Dubey, Ld. Counsel for defendant.
AR Sh. Satish Sharma in person.

Arguments heard on the application for summoning the witnesses.

Ld. Counsel for defendant submits that he does not want to examine witness cited at serial No.4 and 9 of the list of witnesses. He further submits that he will obtain the certified copy of RCA No.83/2016 and thereafter, defendant shall file an appropriate application for summoning witnesses mentioned at S.No.8 of the list of witnesses. It is further submitted on instructions that defendant shall file evidence affidavit of Satish Sharma, Krishan Lal, Krishan Kumar and Harvinder Singh within fifteen days from today. He further submits that the witness mentioned at sl.No.6 and 7 shall be summoned after examination of Satish Kumar, Krishan Lal, Krishna Kumar and Harvinder Singh. It is further submitted that Satish Sharma is a witness to a meeting took place within the family in which it was decided that plaintiff shall execute sale deed of the suit property

in favour of defendant admitting that the suit property has been purchased out of the funds of defendant. He further submits that the witness Krishan Lal and Krishan Kumar shall independently prove that the sale consideration amount qua the clinic and house at Sunam, Punjab was taken by plaintiff. Ld. Counsel for defendant further argued that the said sale consideration amount was taken by plaintiff by misrepresenting and has utilized the same in the suit property. It is further submitted that Sh. Harvinder Singh shall prove that he has handed over the sale consideration amount qua the house at Sunam, Punjab to plaintiff, which belongs to the deceased husband of defendant. It is further argued that the testimony of said witnesses shall reveal the main controversy involved in the present suit and would assist this Court to adjudicate the present matter effectually and completely.

Ld. Counsel for plaintiff submits that evidence of defendant has already been recorded qua the issues framed on 15.02.2011. It is further submitted that filing of application along with list of witnesses at this stage is a delay tactics. It is further submitted that the defendant has already led evidence in respect to issue of possession and therefore, defendant cannot be allowed to again examine witnesses in her defendant evidence qua the issue framed on 15.02.2011. He further submits that the present application be dismissed and the matter be placed for final arguments.

Heard. File perused.

Vide order dated 17.12.2024, this Court has framed issue No.9 i.e. “*Whether plaintiff is entitled for decree of possession in respect to the suit property against defendant, as prayed?OPP*”, pursuant to the application under Order XIV Rule 5 CPC filed by plaintiff.

The plaintiff by way of present suit is claiming relief of possession, mesne profits and injunction against defendant on the strength of sale deed dated 13.05.2005. The defendant has also preferred a counter claim declaring the sale deed dated 13.05.2005 as null and void. Admittedly, on 15.02.2011 the issue qua possession was not framed and on the application of plaintiff, the same was framed on 17.12.2024. On 17.12.2024, Ld. Counsel for plaintiff on instructions has given his no objection for permitting defendant to lead DE qua the additional issue.

Considering the submissions of Ld. Counsels, record and the additional issue qua possession was framed on 17.12.2024, this Court grant liberty to defendant to examine witnesses namely Satish Sharma, Krishan Lal, Krishan Kumar and Harvinder Singh and file their evidence affidavits within 15 days from today with an advance copy to plaintiff.

Put up for DE on 15.04.2025 at 2:00 PM,
19.04.2025 at 2:00 PM and 29.04.2025 at 2:00 PM.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
11.03.2025