

11 CS DJ ADJ 478/19 RICHY REPLENENT RAJ AND ANR Vs. JAI SINGH AND ORS

14.08.2024

Present: Sh. Deepak Kohli, Ld. Counsel for plaintiff (through VC)
Sh. Praveen Kumar, Ld. Counsel for defendant namely Sanjay Kumar along with defendant.

Affidavit of admission/denial of documents filed on behalf of the defendant. He undertakes to provide e-filing number during the course of the day. Advance copy already given. It is also submitted that, defendant is admitting three documents out of five documents filed on behalf of the plaintiff. Same are now exhibited as **Ex.P1/D1 to Ex.P1/D3**.

Ld. Counsel for plaintiff denied all documents filed on behalf of the defendant.

At this stage, Ld. Counsel for plaintiff submits that, since preliminary decree was passed qua the suit property vide order dated 04.08.2023 wherein share of the parties was declared to 1/3rd each and now Sh. Jai Singh is expired on 09.10.2023, his share may be further divided to plaintiff and defendant. Hence, plaintiff and defendant may be entitled for 1/2 share each.

However, Ld. Counsel for defendant submits that, Late Sh. Jai Singh executed a registered Will in favour of defendant during his life time. By virtue of the same, defendant is entitled for atleast 2/3rd share in the suit property. It is also submitted that, defendant already challenged preliminary

decreee passed by Ld. Predecessor of this court before Hon'ble High Court of Delhi vide RFA 202/2024 as defendant is owner of entire suit property.

Submissions heard.

Since, pleadings stands complete and preliminary decree was already passed, following issues are framed:

1. *Whether present suit is liable to be dismissed being lack of cause of action in view of Will dt. 11.08.1999 executed by Late Smt. Heera Devi in favour of Late Sh. Jai Singh and registered Will dt. 14.09.2015 executed by Late Sh. Jai Singh in favour of Sanjay Kumar (defendant herein) ? **OPD***
2. *Whether final decree of partition qua property bearing no. RZ-50B, Gali no. 4, Mohan Block, West Sagarpur, Delhi-110046 can be drawn as per preliminary decree dt. 04.08.2023 after the death of Late Sh. Jai Singh and share of the parties can be declared 1/2 each ? **OPP**.*
3. *Whether plaintiff is entitled for the cost of the suit? **OPP**.*
4. *Relief.*

No other issue arises or pressed for.

List of witnesses be filed by both the parties within 15 days. Evidence by way of affidavit of the PWs be filed 15 days prior to next date of hearing with advance copy to other side.

Be listed for PE on **05.11.2024**.

(SHILPI M JAIN)
DJ-05 (SW)/Dwarka Courts
New Delhi: 14.08.2024