

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

08.01.2025

**One of regular steno is on leave and no substituted steno is available.**

Present: Sh. Deepak Kohli, Ld. Counsel for plaintiff (through VC).

Plaintiff in person.

Ms. Shweta, Ld. Proxy counsel for Sh. Praveen Kumar, Ld.

Counsel for defendant.

Defendant in person.

Record reveals that, vide order dated 18.01.2024 r/w order dt. 23.01.2024, defendant no. 1 namely Jai Singh is already deleted from the array of the parties and defendant no. 2 is considered sole defendant. **Amended memo of parties also filed on behalf of the plaintiff. Ahlmad is directed to rectify the cause title accordingly.**

Application u/s 114 and Order 47 Rule 1 r/w Sec. 151 CPC filed on behalf of the defendant.

Submissions heard.

By way of present application, defendant is seeking correction in order dt. 14.08.2024 wherein this court recorded the submissions of the defendant for 2/3rd share in the suit property. It is submitted that, defendant is claiming 100% share in the suit property.

At this stage, Ld. Counsel for plaintiff submits that, he has no objection to the correction of submissions for defendant's share. However, the claim of share made by defendant is subject matter of trial.

In view thereof, “**atleast 2/3rd**” as mentioned in 4<sup>th</sup> paragraph of the order dt. 14.08.2024 stands rectified to “**100%**”. For the purpose of clarification para no. 4 is reproduced herein below:

*“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 **100%** share in the suit property. It is also submitted that, defendant already challenged preliminary decree 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.”*

**Court reader is directed to make endorsement with this respect in order dt. 14.08.2024. Application stands disposed off accordingly.**

At this stage, Ld. Counsel for plaintiff submits that, vide Preliminary Decree dt. 04.08.2023, share of the parties were already determined to 2/3rd each and it is only after the death of Late Sh. Jai Singh (erstwhile defendant no. 1), defendant started claiming absolute ownership qua the suit property on the basis of alleged Will executed by Late Sh. Jai Singh. It is further submitted that, defendant may be directed to lead evidence to prove alleged WILL, prior to PE. Not opposed.

Defendant shall lead evidence before plaintiff. List of witnesses already filed on behalf of the defendant. Let evidence by way of affidavit be also filed on behalf of the defendant for all DWs within four weeks with advance copy to opposite side.

Put up for DE on **20.03.2025**.

(SHILPI M JAIN)  
DJ-05 (SW)/Dwarka Courts  
New Delhi: 08.01.2025 (sr)