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CS DJ ADJ997/22  
PRAMILA DEVI  
Vs.  
SAVITRI DEVI AND OTHERS

04.06.2024

Present: Mr Anup Verma and Mr Deepansh Vats, Ld.  
counsel for plaintiff  
Mr Jai Dev Solanki, Ld. counsel for defendant No. 5  
Defendant No. 2 in person

Summons issued to defendant Nos. 1 3 and 4  
received back unserved with remarks 'left'.

Ld. counsel for plaintiff submit that defendants are  
well existing at the given address and deliberately avoiding  
service, hence dasti summons are requested.

Submissions heard.

Briefly stated present suit for specific performance  
and permanent injunction filed on behalf of plaintiff for  
execution of Agreement to Sell, GPA, Affidavit, Will, Receipt  
and possession letter all dated 05.11.2019 executed by defendant  
No.1 in favour of plaintiff with following prayer:-

*(i) Pass a decree of specific performance of the suit property i.e. Property bearing No. WZ -390/2. area measuring 68 sq. yds. out of khasra No. 61/8/2, Palam Village, New Delhi i.e better shown in the Red colour in Site plan annexed herewith, in favour of the plaintiff and against the defendant; directing the defendant to execute sale deed and handover the possession of the suit property.*

*(ii) Pass a decree of Permanent injunction in favour of the plaintiff and against the defendants there by restraining the defendants, their legal heirs, nominees, executors, administrators, assignees, representatives or anybody else on behalf of the defendants from transferring/ selling/ alienating or creating third party interest in the suit property i.e. Property*

*bearing No. WZ-390/2, area measuring 68 sq.yds. Out of Khasra No. 61/8/2, Palam Village, New Delhi*

*(iii) Cost of the suit be also awarded in favour of plaintiff and against the defendants;*

*(iv) Any other or further relief which this Hon'ble Court deems fit and proper be also granted in favour of the plaintiff and against the defendants.*

Record reveals that plaintiff has impleaded defendant No.1 as executant of above documents, defendant Nos. 2 to 4 son of defendant No.1 and defendant No.5 being witness to above documents while defendant No. 6 is impleaded as property dealer to the present transaction.

Defendant No.2 who is present in the court submits that he is in exclusive possession of the entire suit property since last 5 years. He further submits that without his knowledge and consent suit property was sold to someone in 2019 by his mother without any authority. Separate statement is recorded under Order X CPC.

**In the considered opinion of this Court, defendant Nos. 3 to 6 are not necessary party to the present proceedings hence deleted from the array of the parties under Order 1 Rule 10 CPC with liberty to plaintiff to call them as summon witness at appropriate stage if required. Amended memo of parties be filed within a week.**

**Since defendant No. 2 has been served on 05.02.2024 but till date has not filed any WS. Hence his right to file WS stands closed.**

At this stage, Ld. counsel for plaintiff submits that since defendant No. 1 could not be served in ordinary mode. She may be served through publication. Defendant No. 2 who is the real son of defendant No.1 also submits that he does not know any whereabouts of defendant No.1 since 2019.

Submissions heard.

In view of the above submissions, let defendant No.1 be served through affixation at last known address and by way of publication in the newspaper i.e. 'The Statesman' and 'The Veer Arjun' on filing of PF and deposit of publication charges.

**Meanwhile let *status quo* be maintained qua suit property till next date of hearing.**

Put up for further proceedings/ arguments on application under Order 39 Rule 1 and 2 CPC on **18.09.2024**.

(SHILPI M JAIN)  
DJ-05 (SW)/Dwarka Courts  
New Delhi: 04.06.2024