

**IN THE Court OF DISTRICT JUDGE-08 WEST, TIS HAZARI
COURTS, DELHI**

Presided by: Ms. Susheel Bala Dagar

CS DJ 607616/16

CNR Number: DLWT01-000001-2008

In the matter of:

Shri Parvinder Dutta

S/o Late Sh. Sudershan Dutta

R/o C-25, Police Station,

Delhi Cantt. 110010

..... Plaintiff

Versus

1. Shri Ravinder Dutta

S/o Late Shri Sudershan Dutta

R/o WZ 12B, Sant Nagar,

Tilak Nagar, New Delhi.

2. Smt. Naresh Mehta

W/o Shri Sunil Mehta

D/o late Shri Sudershan Dutta

R/o H.no. 365/7, Urban Estates,

Sector 7, Ambala.

3. Smt. Parvesh Bali

W/o Shri Satish Bali

D/o late Shri Sudershan Dutta

R/o House no. 44/3, Chibber Enclave,

Garhi Udhampur (J & K)

4. Smt. Suman Datta

Wife of Shri Ravinder Datta

R/o WZ-12B (WZ-27-B), Sant Nagar,

Tilak Nagar, New Delhi.

5. Smt. Bali Rani

W/o Shri Jai Singh Walia

R/o WZ-182, Right Side,

Third Floor, Gali no.4,

Vinder Nagar, New Delhi.

..... Defendants

Date of institution : **08.12.2008**

Date of reserved for judgment : **06.07.2026**

Date of judgment : 31.07.2026

Suit for Partition, Permanent Injunction and Declaration
JUDGMENT

1. Introduction

1. The present suit has been instituted by the plaintiff seeking a decree of partition, declaration and permanent injunction in respect of the movable and immovable properties allegedly left behind by late Shri Sudershan Dutta and late Smt. Bimla Dutta. The plaintiff claims that both deceased persons died intestate and that the suit properties constitute joint family properties in which the plaintiff and defendants no.1 to 3, being the legal heirs, are each entitled to an equal one-fourth share. The plaintiff has further challenged various documents executed in favour of defendant no.1 and the subsequent transfers made by defendant no.1 in favour of defendants no.4 and 5, alleging that the said documents are sham, fraudulent, unsupported by consideration and liable to be declared null and void.

2. The defendants have contested the suit on diverse grounds. Defendant no.1 has asserted that both the immovable properties were his exclusive properties acquired by valid transfers during the lifetime of his parents. Defendant no.4 has supported the defence of defendant no.1, whereas defendants no.2 and 3 have supported the plaintiff. Defendant no.5 claims to be a bona fide purchaser for valuable consideration in respect of one of the suit properties.

Brief facts and pleadings

Case of the Plaintiff

3. The plaintiff has pleaded that he and defendant no.1 are the sons, while defendants no.2 and 3 are the daughters of late Shri Sudershan Dutta and late Smt. Bimla Dutta. According to the plaintiff, the family constituted a Hindu Undivided Family and all the suit properties were acquired from joint family funds and continued to remain joint family properties. It is pleaded that late Shri Sudershan Dutta expired intestate on 04.07.2007 and late Smt. Bimla Dutta also died intestate on 30.10.2008, leaving behind the plaintiff and defendants no.1 to 3 as their only Class-I legal heirs.

4. The plaintiff has described the following properties as constituting the estate left behind by the deceased parents:

(i) Property bearing no. WZ-12B (earlier WZ-27B), Sant Nagar, Tilak Nagar, New Delhi;

(ii) Plot no.63, measuring approximately 175 square yards, situated at Khasra no.17/11, Hemant Vihar, Mohan Garden, New Delhi; and

(iii) Various movable assets, including bank accounts maintained with Central Bank of India and ancestral gold jewellery and ornaments.

5. The plaintiff has averred that after the demise of the father, defendant no.1 gradually assumed control over the family properties and thereafter attempted to deprive the remaining legal heirs of their legitimate shares. It has been alleged that defendant no.1 was residing with the mother and exercised complete influence over her during the last years of her life when she had become physically weak and mentally vulnerable.

6. According to the plaintiff, Smt. Bimla Dutta had suffered a paralytic attack several years prior to her death and thereafter experienced continuous deterioration in her health, including loss of memory, impaired eyesight and inability to independently manage her affairs. Owing to her deteriorating condition, the plaintiff had even instituted guardianship proceedings before the competent District Court during her lifetime.

7. The plaintiff has specifically challenged two sets of documents allegedly executed by Smt. Bimla Dutta in favour of defendant no.1 in respect of the Sant Nagar property, namely the documents dated 27.06.2003 and 15.02.2008. It is alleged that the said documents were never voluntarily executed by the executant and that defendant no.1 procured the same by taking advantage of her vulnerable condition. It is further pleaded that no genuine consideration ever passed between the parties.

8. The plaintiff has also challenged the subsequent transfer of the Hemant Vihar property by defendant no.1 in favour of defendant no.4 and thereafter by defendant no.4 in favour of defendant no.5, alleging that these transactions were sham, collusive and intended merely to create artificial third-party rights.

9. On these averments, the plaintiff has prayed for a preliminary decree declaring one-fourth share each of the plaintiff and defendants no.1 to 3 in the suit properties; a final decree of partition by metes and bounds; declaration that the impugned documents executed in favour of

defendants no.1, 4 and 5 are null and void; permanent injunction restraining alienation of the suit properties; and consequential reliefs.

Written Statement of defendant no.1

10. Defendant no.1 has contested the suit by denying every material allegation made in the plaint. As a preliminary objection, defendant no.1 has contended that the plaintiff has no locus standi to maintain the suit, that the suit has not been properly valued for the purposes of Court fee and jurisdiction, and that the plaintiff is liable to pay ad valorem Court fee.

11. On merits, defendant no.1 has pleaded that the Sant Nagar property was the exclusive self-acquired property of late Smt. Bimla Dutta and that she voluntarily transferred the first floor with roof rights in his favour by executing registered documents dated 27.06.2003 for valuable consideration. It is further pleaded that she similarly transferred the ground floor in favour of defendant no.1 through another set of registered documents dated 15.02.2008 after receiving consideration and while she was in sound physical and mental condition. Defendant no.1 has denied every allegation regarding fraud, coercion, undue influence or misrepresentation.

12. With regard to the Hemant Vihar property, defendant no.1 has pleaded that late Shri Sudershan Kumar Dutta had sold the property to Shri Manjeet Singh in the year 1999, who thereafter sold the same to defendant no.1. Defendant no.1 further claims that he validly transferred the property to defendant no.4, who in turn sold it to defendant no.5. It has also been pleaded that there never existed any Hindu Undivided

Family, that neither property constituted HUF property, and that the plaintiff has no enforceable right in the suit properties.

Written Statement of defendant no.4

13. Defendant no.4 has substantially adopted the written statement of defendant no.1 and has asserted that she acquired lawful title from defendant no.1 for valuable consideration. She has denied every allegation of fraud or collusion and has prayed for dismissal of the suit.

Written Statement of defendants no.2 and 3

14. Defendants no.2 and 3 have supported the plaintiff in every material particular. They have specifically pleaded that both immovable properties belonged to the deceased parents and that defendant no.1 never acquired any valid title. They have denied the genuineness of the alleged transfers relied upon by defendant no.1 and have asserted that all four siblings are entitled to equal one-fourth shares in the estate left behind by the deceased parents.

Written Statement of defendant no.5

15. Defendant no.5 has claimed that she is a bona fide purchaser for valuable consideration. She has pleaded that she purchased the Hemant Vihar property from defendant no.4 by paying consideration, obtained possession thereof and even secured an electricity connection in her name. It is therefore contended that she is a bona fide purchaser and that no relief can be granted against her.

Replications

16. The plaintiff filed replications to the written statements of defendants no.1, 4 and 5, wherein all the preliminary objections and

allegations contained in the written statements were specifically denied. The plaintiff reiterated that the documents relied upon by defendant no.1 had never been voluntarily executed by late Smt. Bimla Dutta and that the alleged chain of title concerning the Hemant Vihar property was wholly fictitious and unsupported by law. The plaintiff reaffirmed that both immovable properties continued to belong to the estate of the deceased parents and that all subsequent transfers were liable to be ignored.

Issues

17. From the pleadings of the parties and material on record, following issues were framed by the Hon'ble High Court vide order dated 23.02.2011 :-

Issue no. 1 Whether property No. WZ-27B (now WZ-12B), Sant Nagar, New Delhi, was purchased by defendant no.1 from late Smt. Bimla Dutta as alleged in the written statement? (OPD-1)

Issue no. 2 Whether property No.63, Khasra No.17/11, Village Rajpur Khurd, was sold by late Shri Sudershan Kumar Dutta to Shri Manjeet Singh and thereafter purchased by defendant no.1, as alleged in the written statement? (OPD-1)

Issue no. 3 Whether the plaintiff is entitled to the decree of partition as prayed? (OPP)

Issue no. 4 Relief.

After framing of issues it was ordered vide order dated 23.02.2011 that the defendant no. 1 has to begin first with his evidence.

Evidence

18. In order to prove the defence, defendant no.1 examined himself as DW-1 and relied upon the registered General Power of Attorney, Agreement to Sell, Receipt, Possession Letter and Will dated 27.06.2003 and 15.02.2008 in support of his claim over the Sant Nagar property. He also relied upon documents forming the alleged chain of title in respect of the Hemant Vihar property. Official witnesses from the office of the Sub-Registrar and other formal witnesses were also examined to prove registration of the documents.

Defendant no.5 also entered the witness box to support her plea of bona fide purchase.

19. Defendants no.2 and 3 entered the witness box and supported the plaintiff's case, deposing that the suit properties belonged to their deceased parents and denying that defendant no.1 had acquired any valid title. They also deposed regarding the deteriorating physical and mental condition of Smt. Bimla Dutta during the relevant period.

20. In order to prove his case, the plaintiff examined himself and other witnesses and relied upon documentary evidence including the medical records of late Smt. Bimla Dutta, documents relating to the guardianship proceedings and other relevant documents to establish her deteriorating medical condition and to challenge the validity of the alleged transfers.

Defendant evidence

DW1/Ravinder Dutta

21. DW1/Ravinder Dutta tendered affidavit in evidence Ex.PW1/A and relied upon the following documents: sale deed dated 23.04.1969 together with three receipts Ex. DW1/1, Power of Attorney dated 27.06.2003

Ex.DW1/2, Will dated 27.06.2003 Ex.DW1/3, Agreement to Sell dated 27.06.2003 Ex.DW1/4, receipt and possession letter dated 27.06.2003 respectively Ex.DW1/5 and Ex.DW1/6, affidavit executed by Smt. Bimla Dutta in support of the agreement to sell dated 27.06.2003 Ex.DW1/7, GPA dated 15.02.2008 Ex. DW1/8, Will dated 15.02.2008 Ex. DW1/9, Agreement to Sell dated 15.02.2008 Ex. DW1/10, possession letter Ex. DW1/11, receipt of Rs. 6 lakhs executed by Smt. Bimla Dutta Ex. DW1/12, affidavit executed by Smt. Bimla Dutta in support of the agreement to sell dated 15.02.2008 Ex.DW1/13, Power of Attorney dated 17.07.1991 Ex. DW1/14, affidavit of Shri Suresh in support of general power of attorney Ex. DW1/15, Agreement to Sell dated 17.07.1991 Ex. DW1/16, receipt of Rs. 70,000/- executed by Shri Suresh Ex. DW1/17, Will dated 15.07.1991 Ex. DW1/18, GPA dated 14.09.1999 Ex. DW1/19, Agreement to Sell Ex. DW1/20, affidavit of Shri Sudershan Kumar Dutta in support of agreement to sell dated 14.09.1999 Ex. DW1/21, Will dated 14.09.1999 Ex. DW1/22, receipt of Rs. 95,500/- executed by Shri Manjeet Singh Ex. DW1/23, possession letter dated 14.09.1999 Ex.DW1/24, GPA dated 16.03.2000 Ex. DW1/25, Agreement to Sell Ex. DW1/26, affidavit dated 16.03.2000 of Shri Manjeet Singh in support of the agreement to sell Ex. DW1/27, receipt of Rs. 1,15,000/- executed by Shri Manjeet Singh Ex. DW1/28, possession letter and Will dated 16.03.2000 Ex.DW1/29 to Ex.DW1/30 respectively, GPA dated 21.10.2008 Ex. DW1/31, affidavit of Shri Ravinder Dutta in support of the special power of attorney Ex. DW1/32, possession letter, SPA and Will, all dated 21.10.2008 Ex.DW1/33 to Ex.DW1/35 respectively,

Agreement to Sell dated 22.10.2008 Ex. DW1/36, GPA dated 22.10.2008 Ex. DW1/37, affidavit of Smt. Suman Dutta in support of the general power of attorney Ex. DW1/38, possession letter dated 22.10.2008 Ex. DW1/39, receipt dated 22.10.2008 of Rs. 2,50,000/- executed by Smt. Suman Dutta Ex. DW1/40, SPA and Will dated 22.10.2008 executed by wife of DW1 in favour of defendant no.5 Ex.DW1/41 to Ex.DW1/42.

22. DW1, Ravinder Dutta, stated during his cross-examination that his correct name was Ravinder Dutta, while "Rajiv" was only a nickname used at home. He denied residing at C-25, Delhi Cantt. in 2001 and asserted that his family had shifted from that address before his father's death. DW1 denied that the signatures on the medical certificates dated 02.03.2007 and 12.03.2007 were his and maintained that the Tilak Nagar property was originally numbered WZ-27B and later WZ-12B. He denied that it was ever officially known as WZ-12A, admitted having no knowledge of the MCD records, and conceded that he had never applied for mutation of the property in his own name.

23. Regarding the ownership of the Tilak Nagar property, DW1 denied that it had been purchased by his father in the name of his mother. Instead, he claimed that the purchase money had been provided by his maternal uncles because his father could not have afforded the property on his salary. He admitted that his mother had no independent income, that this plea was absent from his written statement, and that he possessed neither documentary proof nor personal knowledge of the alleged financial contributions.

24. With respect to the Mohan Garden property, DW1 admitted that his

father had purchased it after retirement but stated that he did not know the source of funds or mode of payment. He further admitted that the Urdu documents relating to the property were not executed in his presence, that he could neither read Urdu nor verify their contents, and that he became aware of those documents only in 2003.

25. DW1 deposed that he purchased the first floor of the Tilak Nagar property from his mother in 2003 for Rs.80,000/- in cash while earning only Rs.3,500–4,500/- per month. He admitted that the transaction was neither disclosed to his employer nor reflected in his income tax records and that he could not identify the bank account into which the alleged insurance claim amount had been deposited.

26. DW1 admitted that his mother was illiterate but asserted that the Sub-Registrar had explained the sale documents to her. He denied that the sale deeds had been procured by fraud, misrepresentation, or by taking advantage of her alleged poor health or defective eyesight.

27. During the cross-examination on documents, DW1 initially failed to identify several of his father's signatures but subsequently admitted that the signatures appearing on Ex. DW1/19 to Ex. DW1/24 were indeed those of his father. He also admitted that his father had purchased and sold portions of the Mohan Garden property, although he claimed to have no personal knowledge of many of those transactions.

28. With regard to his mother's medical condition, DW1 denied that she had suffered paralysis or substantial loss of eyesight and maintained that she had only suffered from heart ailments and a hip fracture. He admitted that she underwent treatment at DDU Hospital and Maharaja

Agrasen Hospital but repeatedly expressed inability to recall the details of her treatment. He also denied preventing the plaintiff from meeting their mother and claimed that the PCR call dated 24.09.2008 related only to a quarrel.

29. DW1 admitted his signatures on Ex. DW1/PC but alleged that the police had obtained them on a blank paper. He further admitted receiving notice in proceedings relating to the appointment of a caretaker for his mother's property but stated that he did not appear because his mother had already passed away.

30. DW1 further deposed that the Mohan Garden property was ultimately transferred to his wife and thereafter to his sister-in-law, Bali Rani, although he could not remember the sale consideration, source of funds, or other material details of those transactions. He also admitted that he, his wife, and Bali Rani were represented by the same Counsel in the present suit.

31. DW1 admitted that several of his identity documents continued to show his Delhi Cantt. address despite his claim of residing elsewhere and acknowledged that his wife also possessed identity documents reflecting both Delhi Cantt. and Sant Nagar addresses. He further admitted that several facts deposed by him in Court, including the prior sale of 25 square yards of the Mohan Garden property, had not been pleaded in his written statement.

32. DW1 stated that his mother used to execute documents by affixing her thumb impression and admitted that, after her death, he transferred the electricity and water connections into his own name. He also admitted

using different styles of signatures and that official records referred to him interchangeably as Ravinder Dutta and Rajiv Dutta.

33. DW1 stated that his affidavit had been drafted by an advocate whose name he could not remember. He admitted that he did not know Urdu and had accepted the translations of Urdu documents without verifying either the translator or the accuracy of the translations.

34. DW1 also gave inconsistent evidence regarding the purchase of the ground floor of the Tilak Nagar property. While he initially claimed that he had purchased it in 2003 for Rs.80,000/-, he later admitted that he had actually purchased it on 15.02.2008 for Rs.6,00,000/- in cash. He further admitted that the cash transaction was never disclosed in his income tax records and that he could not remember who witnessed the payment or what his mother did with the sale proceeds.

35. He further admitted that he did not know the market value of the property in 2008, could not provide details regarding the alleged financial contribution made by his maternal uncles, and could not remember whether his mother's pelvic fracture or eye ailments had ever been reported to any authority.

36. Throughout the remainder of his cross-examination, DW1 denied the plaintiff's allegations that his mother lacked mental capacity, that the sale deeds had been obtained by fraud or undue influence, that the property transactions were sham transactions intended to defeat the plaintiff's rights, that his father had disowned him, or that the plaintiff had been looking after their mother. He maintained that he had lawfully acquired the Tilak Nagar and Mohan Garden properties and denied that

he was deposing falsely.

DW2/Smt. Suman Dutta/ defendant no. 4.

37. DW2/Smt. Suman Dutta tendered her evidence by way of affidavit Ex.DW-2/A and relied upon the documents already exhibited in evidence of DW1.

38. During her cross-examination, DW-2, Smt. Suman Dutta, deposed that she had been residing at the Delhi Cantt. house since 1998 and stated that Late Shri Sudershan Dutta resided at both the Delhi Cantt. and Tilak Nagar properties until 2006. She further deposed that she married defendant no.1 after his divorce from his first wife and stated that the plaintiff had already been living separately at that time. Although she stated that her advocate had explained her affidavit, she admitted that she was unable to explain certain legal expressions without consulting her Counsel. She further alleged that the plaintiff did not take care of his parents and instead visited them only to obtain their signatures and withdraw their money.

39. DW-2 also admitted that she had no knowledge regarding her in-laws' bank accounts or whether her husband had withdrawn money from those accounts. She denied that the plaintiff had borne the medical expenses of her mother-in-law, stating that the treatment was covered under the CGHS facility.

40. With regard to the suit properties, DW-2 deposed that the Tilak Nagar property originally belonged to her father-in-law and that the Mohan Garden property had been purchased by her husband in 2000. She stated that the Mohan Garden property was transferred to her in 2008

through documents including a General Power of Attorney, Will, and Receipt, and was subsequently sold by her to her sister, Smt. Bali Rani, for Rs.2,50,000/- in cash. However, she admitted that she had paid no consideration to her husband for acquiring the property and could not recall the exact address, market value, date of sale, or the names of the attesting witnesses, while stating that the sale proceeds were utilized for family expenses.

D2W1/Smt. Naresh Mehta/ defendant no. 2

41. D2W1/Smt. Naresh Mehta tendered her evidence by way of affidavit Ex.D2W1/A.

42. During her cross-examination, D2W1, Smt. Naresh Mehta, deposed that she appeared before the Court at the request of the plaintiff and stated that she believed defendant no.1 had illegally usurped the suit properties, as her father would never have intended to transfer the entire property to only one child. She stated that all four siblings were co-owners of the suit properties, that her relationship with the plaintiff remained cordial, and that her relations with defendant no.1 became strained after their father's death.

43. D2W1 further deposed that the Tilak Nagar property had been purchased in her mother's name, but according to her, the entire sale consideration had been paid by her father, whom she considered the real owner. She admitted that she had seen the title documents executed by her mother in favour of defendant no.1 only after the institution of the present suit and had never raised any objection to those documents. She also stated that the ground floor of the property was occupied by tenants

while defendant no.1 resided on the first floor.

44. With regard to the Mohan Garden property, D2W1 stated that it had been purchased by her father in 1991 and presently stood in the name of defendant no.5, Bali Rani. She further stated that her father had sold 25 square yards of the property to Manjeet Singh but was unaware of the status of the remaining portion. She admitted that she had last visited the property in 2000 and had no knowledge of its present condition or possession.

45. D2W1 also admitted that she had never issued any legal notice, lodged any police complaint, or initiated any independent legal proceedings against defendants no.1, 4, or 5 regarding the alleged illegal transfer of the suit properties. She further stated that her mother had suffered a paralytic attack in 1997 and denied the suggestions that she had no intention to seek partition, that defendant no.1 and defendant no.5 were the lawful owners of the respective properties, or that she was deposing falsely.

DW3-A/Sh. Ravinder Kumar

46. DW3-A/Sh. Ravinder Kumar tendered evidence by way of affidavit Ex. DW-3/A.

47. During his cross-examination, DW3-A, Ravinder Singh, deposed that he had studied up to the 10th standard, could read and write English to a limited extent, and had read his affidavit before signing it. He stated that he had known Ravinder Dutta since 2002 through their employment at the airport and that his affidavit had been prepared at the office of the defendants' Counsel. He admitted that he had signed certain property-

related documents but could not specify their nature and further stated that no monetary transaction had taken place in his presence.

48. DW3-A further deposed that he had only seen the Mohan Garden property from outside, had never entered it, and could not recall whether there was any construction on it. He also admitted that he could not remember the house numbers of the Delhi Cantt. and Tilak Nagar properties or the ownership of those properties. When asked to read a paragraph of his own affidavit, he was unable to do so, and the contents were explained to him by his Counsel.

49. He further stated that Ravinder Dutta had never informed him why he was executing a General Power of Attorney and Will in favour of his wife, nor had he shown him any title documents proving his ownership of the property. He denied the suggestions that the documents were executed to deprive the plaintiff of his share or that the Tilak Nagar and Mohan Garden properties belonged to Ravinder Dutta's mother and father respectively.

50. DW3-A also deposed that his affidavit had been prepared on 31.07.2025 and signed on 01.08.2025 after it had already been drafted by the defendants' counsel. He stated that he got the affidavit attested before an Oath Commissioner and admitted that the details regarding the registration particulars of the General Power of Attorney and Will had been supplied to him by Smt. Suman Dutta. He further stated that another female witness was present at the time of registration before the Sub-Registrar, though he did not know who had brought her. He denied the suggestion that he was deposing falsely at the instance of Ravinder Dutta.

D3W1/Smt. Parvesh Bali/ defendant no. 3

51. D3W1/Smt. Parvesh Bali tendered her evidence by way of affidavit Ex.D3W1/A.

During her cross-examination, D3W1, Smt. Parvesh Bali, deposed that she appeared before the Court at the request of the plaintiff and stated that the contents of the plaint had been explained to her by her children. She stated that she had been residing in Jammu since her marriage in 1984 and believed that defendant no.1 had illegally usurped the suit properties, as her father would never have transferred the entire property to only one of his children. According to her, all four siblings were co-owners of the suit properties. She further stated that although she came to know about the title documents in 2009, she had not taken any legal steps to challenge them.

52. D3W1 further deposed that her relations with both the plaintiff and defendant no.1 were cordial during the lifetime of their father but became strained with defendant no.1 after their father's death. She denied that she and her sister had been disowned by their mother and stated that her mother had been suffering from paralysis since 1997. She also deposed that she last visited the Tilak Nagar property on the date of her mother's death, where the ground floor was occupied by tenants and defendant no.1 was residing on the first floor with his family.

53. With regard to the suit properties, D3W1 stated that although the Tilak Nagar property stood in her mother's name, the entire sale consideration had been paid by her father, whom she considered the real owner. She further stated that the Mohan Garden property had been

purchased by her father in 1991 and presently stood in the name of defendant no.5, Bali Rani. She admitted that she had last visited the Mohan Garden property in 2000 and had no knowledge of its present condition or possession. She also admitted that she had never issued any legal notice, lodged any police complaint, or initiated any legal proceedings against defendants no.1, 4, or 5 regarding the alleged illegal transfer of the suit properties.

54. D3W1 further stated that her mother had suffered a paralytic attack in 1997 and that the relevant medical records had been placed on record by the plaintiff. She denied the suggestions that she had no intention to seek partition, that defendant no.1 and defendant no.5 were the lawful owners of the respective properties, or that she was deposing falsely.

D5W1/Smt. Bali Rani/ defendant no. 5

55. D5W1/ Smt Bali Rani tendered her evidence by way of affidavit Ex.D5W1/A.

During her cross-examination, D5W1, Smt. Bali Rani, deposed that she had been residing at her present address for the last eighteen years and had earlier resided at Vasundara Line, Delhi Cantt. She stated that she purchased Plot No. 63, Khasra No. 17/11, Razapur Khurd, Mohan Garden, from her sister, Smt. Suman Dutta, on 21.10.2008 for a consideration of Rs.2,50,000/-, which she claimed was paid in cash in instalments. Although she initially stated that the purchase money had been arranged by her husband, she later stated that the amount had been paid from her own funds. She further deposed that possession of the property was delivered to her after execution of the sale documents.

56. D5W1 stated that there was a small room on the property occupied by a servant, though she could neither disclose the servant's identity nor produce any complaint despite alleging that the plaintiff had been asking the occupant to vacate. She admitted that the original owner of the property was Late Shri Sudershan Dutta and stated that he had sold the property to Manjeet Singh, from whom the title eventually came to Smt. Suman Dutta before being transferred to her. She further admitted that she had never paid house tax, did not know whether Smt. Suman Dutta had paid any house tax, and had not received any such records.

57. She denied the allegation that the signatures of Late Shri Sudershan Dutta on the transfer documents were forged, stating that he had personally executed the documents, although she could not state the source of this knowledge. She admitted that she did not file Income Tax Returns, had not disclosed the purchase of the property to the Income Tax Department, and that her husband had also not disclosed the property in his service records. She could not remember the denomination of the currency notes used for payment but stated that Ravinder Dutta was present during the transaction. She further deposed that the property was purchased at the prevailing market rate, personally measured by her before purchase, and that all sale documents and receipts had been placed on record.

58. D5W1 further stated that the sale documents were registered before the Sub-Registrar, Janakpuri, identified the attesting witnesses, and confirmed that the original title documents remained in her possession. She stated that she intended to construct a house on the property but

could not do so due to the pendency of the present litigation. She denied the suggestions that she had never purchased the property or was falsely claiming ownership.

59. With regard to the Tilak Nagar property, D5W1 deposed that she was an attesting witness to the sale documents executed by Smt. Bimla Dutta in favour of Ravinder Dutta. She further stated that she witnessed Ravinder Dutta paying Rs.6,00,000/- in cash to Smt. Bimla Dutta before the Sub-Registrar, who counted the money herself. She denied the suggestions that no consideration had been paid or that she was deposing falsely. The Counsel for defendants no. 2 and 3 adopted the cross-examination conducted by the counsel for the plaintiff.

60. **DW6/Sh. Chaman Lal Record Keeper, Sub-Registrar-II, Basai Darapur, New Delhi-110027.**

DW6/Sh. Chaman Lal proved the summoned record i.e. General Power of Attorney dated 27.06.2003, bearing Registration no. 30026, Book no.4, Vol. no. 9133, Page no. 46-47, Will dated 27.06.2003, bearing Registration no. 27160, Book no. 3, Vol no. 5927, Page no. 83, General Power of Attorney dated 15.02.2008 executed by Smt. Bimla Rani, bearing Registration no. 1866, Book no. 4, Viol. no. 11997, R, no. 1866, Page no. 72-74, Will dated 15.02.2008 executed by Smt. Bimla Rani, bearing Registration no. 1769, Volume no. 7558, Page no. 172-173, Book no.3, General Power of Attorney dated 21.10.2008, Registration no. 15295, Volume no. 12338, Page no. 14-16, Book IV, Will dated 21.10.2008, Registration no. 11828, Vol no. 7663, Page no. 49-50, General Power of Attorney dated 22.10.2008, Registration no. 15392,

Vol. no. 12340, Page no. 103-105 and Will dated 22.10.2008, Registration no. 11888, Vol no. 7663, Pag no. 193-194, Book III Ex. DW-6.

61. During his cross-examination, DW6, Chaman Lal, deposed that he had been posted in the concerned office only since January 2024 and was not serving there when the documents in question were executed. He stated that he was not present at the time of their execution, had no personal knowledge of the transactions, had never seen the parties concerned, and was deposing solely on the basis of the official records maintained in the office. The Counsel for defendants no. 2 and 3 adopted the cross-examination conducted by the Counsel for the plaintiff.

After cross-examination, defendant evidence was closed.

Examination under X CPC of Sh. Ravinder Dutta/ defendant no. 1 on order dated 22.02.2025

62. During his examination, defendant no. 1 stated that he resides on the first floor of property bearing No. WZ-27B (12-B), Sant Nagar, Tilak Nagar, New Delhi. He deposed that Ms. Asha Rani resides in one room on the ground floor without paying any rent to him and that she independently pays the electricity and water bills. He further stated that Ms. Asha Rani had previously worked as his domestic help. With regard to the Mohan Garden property, he stated that he had no knowledge as to who was presently residing there.

Examination under X CPC of Ms. Bali Rani /defendant no. 5 on 11.03.2025

63. During her examination, defendant no. 5 stated that she had been residing at WZ-182, Third Floor, Gali No. 4, Virender Nagar, New Delhi,

for the last about twenty years and had purchased the said property from some persons bearing the surname Walia. She further deposed that she is the owner of Plot No. 63, Khasra No. 17/11, Raja Puri, Razapur Khurd, Mohan Garden, which she purchased from her sister, Smt. Suman Dutta, in the year 2008 for a consideration of Rs.2,50,000/-, paid entirely in cash. She stated that she did not remember whether she had verified the chain of title documents before purchasing the property. She further deposed that she is a housewife and has a domestic helper, whose name she could not recall, who has been residing at the Mohan Garden property for the last seven to eight years to look after it, while no one occupies the property during the daytime.

Plaintiff Evidence:-

PW1/Sh. Parvinder Dutta

64. PW1/Sh. Parvinder Dutta tendered his evidence by way of affidavit Ex. PW1 and relied upon the following documents: death certificate of Late Sh. Sudarshan Kumar Dutta Ex PW-1/1, death certificate of Late Smt. Bimla Dutta Ex. PW1/2, copy of Sale deed dated 27.06.2003 in the name of Late Smt. Bimla Dutta Ex. PW-1/3 already Ex. DW-1/4, copy of GPA in the name of Sh. Sudarshan Kumar Dutta dated 16.07.1991 Ex. PW-1/4 already Ex. DW-1/14, copy of Agreement to Sale dated 16.07.1991 Ex. PW-1/5 already Ex. DW-1/16, copy of Will dated 15.07.1991 Ex. PW-1/6 already Ex. DW-1/18 dated 01.10.2012, statement of the account of Late Smt. Bimla Dutta having a/c no. 3016134538 in Central Bank of India, Sadar Bazar, Delhi Cantt. 110010 Mark A, copy of Public Notice (Daily Newspaper Punjab Kesari) dated

12.01.1994 Ex. PW-1/8, copies of the documents showing the treatment of the mother of the parties at Indraprastha Hospital Ex. PW-1/9, copies of the documents showing the treatment of the mother of the parties at Maharaja Agrasen Hospital Ex. PW-1/10, copies of the documents showing the treatment of the mother of the parties at DDU Hospital Ex. PW-1/11, copies of statement of plaintiff and defendant no. 1 dated 24.09.2008 Mark B, copy of letter to the Manager of Central Bank of India dated 06.11.2008 Ex. PW-1/13 and copy of complaint dated 05.01.2009 Ex. PW-1/14.

65. PW1/Parvinder Dutta, during his extensive cross-examination, stated that he had served in the Delhi Police and retired as an ASI. He clarified that his brother Ravinder Dutta's correct date of birth was 30.04.1969 and explained the earlier contrary date as a typographical error, supported by school records and a certificate. He admitted that he could not recall several details concerning the births, marriages and other family events.

66. PW1 claimed that he, his siblings and parents constituted an HUF and that the Tilak Nagar and Mohan Garden properties were HUF properties. However, he admitted that there was no written declaration, agreement, account, audited record, independent source of income or other documentary evidence establishing the alleged HUF. He further admitted that the properties were purchased from his father's salary and not from HUF funds and that no partition or assertion of HUF rights had been made during the lifetime of his parents. He stated that the properties were treated as HUF properties because they remained unpartitioned and

because of his parents' alleged oral intention to treat them as common family property.

67. Regarding the Tilak Nagar property, PW1 stated that defendant no.1 had occupied it under an oral arrangement with their mother and had collected rent on behalf of the alleged HUF. However, he admitted that he had no rent receipts or other documentary evidence to establish such collection, had never demanded his alleged share of the rent, and had never lodged any complaint regarding its alleged misappropriation. He also stated that he had collected rent on one occasion and handed it over to his mother.

68. PW1 alleged that the documents executed by his mother in favour of defendant no.1 concerning the first floor in 2003 and the ground floor in 2008 were obtained by fraud and cheating. He relied upon his mother's paralysis, blindness, hip fracture and alleged loss of memory to question her capacity to execute the documents. Nevertheless, he admitted that he had not alleged that she was legally of unsound mind, that no disability certificate had been issued, and that she had appeared before the Sub-Registrar for registration. He further admitted that Defendant No.1 had taken care of their mother and taken her to hospitals after July 2007.

69. Regarding the Mohan Garden property, PW1 stated that Plot No.63 measuring 175 square yards had been purchased in 1991 and admitted that his father had sold 25 square yards in 1999, a transaction which he did not challenge because Defendant No.1 had acted as a witness at their father's request. He also admitted that he did not know whether house tax had been paid and alleged, without documentary proof, that his father's

signatures on one of the documents had been forged.

70. PW1 also alleged that defendant no.1 had attempted to misappropriate the movable and immovable assets, jewellery and bank deposits of their parents. However, he admitted that, apart from his letter dated 06.11.2008, he had taken no substantial action and had not lodged a police complaint. He further admitted that the alleged withdrawal of approximately Rs.62,000/- from his mother's bank account had neither been mentioned in his affidavit nor reported to any authority.

71. In respect of the jewellery, PW1 claimed that he knew about his parents' gold ornaments because he had seen them wearing the same. However, he admitted that he had no bills, purchase documents, details of the goldsmith, or other documentary evidence regarding the jewellery and could not state its purchase price or date of manufacture. PW1 relied upon the public notice published in *Punjab Kesari* on 12.01.1994, claiming that his father had thereby severed relations with Defendant No.1. He stated that he came to know of the notice only after his father's death in 2008, despite regularly meeting his father, and admitted that he had not accompanied his father for its publication and could not recall the complete details of the advocate involved.

72. PW1 also referred to criminal proceedings involving defendant no.1 and alleged that defendant no.1 had used different names and dates of birth and had failed to disclose criminal proceedings while obtaining a passport. However, PW1 admitted that he, his parents, wife and sisters had also been arrayed as accused in the Gurgaon dowry case and that he had not informed his department about the FIR.

73. When confronted with photographs and videos, PW1 identified his parents and other family members and admitted that his mother appeared healthy and was seen dancing in one of the videos. He nevertheless maintained that she was suffering from paralysis, blindness and other ailments during the relevant period. He also relied upon photographs showing his parents wearing gold ornaments to support his claim regarding the family jewellery.

74. PW2/Smt. Nishat Fatma, Branch Manager, Central Bank of India, Delhi Cantt. Branch, New Delhi

PW2/Smt. Nishat Fatma proved the certified copy of account statement of Sh. Sudarshan Kumar Dutta, A/c no. 1020266379 from 01.01.2022 to 12.01.2026 Ex.PW2/1, certified copy of signature of Sh. Sudarshan Kumar Dutta from the accounts book available at the bank record of Central Bank of India Ex.PW2/2 and account opening detail of A/C no. 1020266379 of Lt. Sh. Sudarshan Kumar Dutta dated 08.06.1980 Ex. PW2/3.

75. During cross-examination, PW-2 deposed that the bank account in question was opened on 08.06.1980 as a self-operated savings account and was not an HUF account. She further stated that, on the basis of the bank records, she could identify the signatures of Late Shri Sudarshan Kumar Dutta, though she could not say whether the signatures exhibited as Ex. PW-2/2 were those obtained at the time of opening the account or at a later stage. PW-2 admitted that she had no knowledge as to whether any person other than Late Shri Sudarshan Kumar Dutta had operated the account and clarified that she had produced only the records. She further

stated that she had neither verified the existence of any nominee nor brought the record of the last cheque signed by the account holder, as those records had not been summoned. She denied the suggestion that she was deposing falsely. PW-2 was not cross-examined by the Ld. Counsel for defendants No. 2 and 3.

76. **PW3/Sh. K.D Sharma, Senior Medical Record Technician posted at Maharaja Agrasen Hospital, West Punjabi Bagh, New Delhi** produced the original authority letter Ex. PW-3/1 and deposed that he had been directed to produce the medical records of Late Smt. Bimla Dutta for the year 2007. He stated that, as per the hospital's record retention policy, the medical records pertaining to the year 2007 had been permanently destroyed. He also proved the certified copy of the hospital's record retention policy dated 01.02.2016 as Ex. PW-3/2 and the certified copy of the storage records as Ex. PW-3/3.

77. **PW4/Mr. Shahbaz, Recovery Associate, posted at BRPL Office, division Tagore Garden, New Delhi** produced the records relating to electricity connection K. No. 2641T3440217 installed at property No. WZ-27B, Ground Floor, Sant Nagar, Tilak Nagar, New Delhi. He proved the electricity bills for the period 2007–2008 as Ex. PW-4/1 and the record showing the date of installation of the electricity connection as Ex. PW-4/2.

78. During cross-examination by the Ld. Counsel for defendants No. 1, 4 and 5, PW-4 stated that he was not the custodian of consumer records but explained that BRPL verifies title documents and the applicant's possession before granting an electricity connection. He deposed that the

electricity connection bearing K. No. 2641T3440217 had been installed only after due verification of the title documents and after confirming that defendants No. 1 and 4 were residing at the premises. He further stated that, for mutation of an electricity connection, property documents, identity proof and a No Objection Certificate are generally required, although he could not say whether an NOC had been submitted in the present case. He also stated that BRPL verifies the complete chain of title documents before processing such applications and admitted that the ownership documents of defendant No. 1 had been verified. He clarified that he had produced only the records specifically summoned by the Court and denied the suggestion that he was deposing falsely. PW-4 was not cross-examined by the Ld. Counsel for defendants No. 2 and 3.

79. During cross-examination by the Ld. Counsel for the plaintiff, PW-4 stated that although the summons referred to an electricity connection in the name of Smt. Bimla Rani, the records revealed that the connection actually stood in the name of Shri Ravinder Dutta, and he produced the relevant records accordingly. He further stated that he had not produced the document relating to Diary No. 94892 dated 17.04.2008 because it pertained to Bijli Adalat and not to BSES. When shown an electricity bill dated 17.05.2008 in the name of Late Smt. Bimla Rani bearing the same connection number, he stated that he would have to verify the same from the records. He also produced the certified backend data records of the electricity connection, duly certified by the Commercial Officer, which were exhibited as Ex. PW-4/3, and clarified that BSES had no custody or concern with the records of Bijli Adalat.

80. **PW5/Sh. Subhash Chand, Record Clerk, MRD, DDU Hospital, Hari Nagar, Delhi** produced his authority letter Ex. PW-5/A and the letter issued by the Medical Record Department Ex. PW-5/B. He identified the discharge summary of patient Vimla, who had been admitted on 17.11.2005 and discharged on 21.11.2005, which was marked as Mark PW-5/X.

81. During cross-examination by the Ld. Counsel for defendants No. 1, 4 and 5, PW-5 clarified that his duties were confined to maintaining hospital records and that he had no personal knowledge of the physical or mental condition of the patient mentioned in Mark PW-5/X. He further stated that he could not comment on the medical condition recorded in the documents but identified them as records of DDU Hospital. PW-5 also deposed that the original records summoned by the Court were no longer available, as they had been weeded out in accordance with the record retention schedule prescribed by the Administrative Reforms Department, Government of NCT of Delhi.

82. **PW5/Dr. Sunil P. Massand, Consultant Physician, Maharaja Agrasen Hospital, Punjabi Bagh, Delhi** deposed that Late Smt. Bimla Dutta, aged about 70 years, was admitted to the hospital on 06.06.2007 under the care of his medical unit with complaints of diminished vision and facial disfigurement. He stated that medical investigations, including CT Scan and MRI of the brain, revealed chronic infarcts and chronic ischemic infarcts affecting different regions of the brain. He further deposed that the patient was examined by neurologists and ophthalmologists, treated by a multidisciplinary medical team, and

discharged on 16.06.2007 after improvement with advice for regular follow-up. He also explained the medical terminology used in the report and identified the medical report as Ex. PW-5/1.

83. During cross-examination by the Ld. Counsel for defendants No. 1, 4 and 5, PW-5 clarified that he had no personal knowledge of the present dispute and had received no inducement for giving evidence. He further stated that MRI reports are prepared by radiologists and that although Smt. Bimla Dutta had been admitted under his medical unit, the unit was not headed by him. PW-5 admitted that he was unaware of any medical certificate declaring Smt. Bimla Dutta to be of unsound mind or mentally incapacitated and stated that issuing such certificates did not fall within the scope of his duties. He further deposed that the patient's medical history could have been provided either by the patient herself or by an accompanying person, though he did not remember who had furnished the history in the present case. He stated that patients suffering from chronic infarcts and chronic ischemic infarcts may experience impairment of mental functioning, but he could not comment on the actual mental condition of Smt. Bimla Dutta or her capacity to execute documents during her admission, as he had no independent recollection and his testimony was based solely on the hospital records. He also stated that he did not remember treating her after 2008, declaring her to be of unsound mind, or commenting on whether her condition was recurrent. PW-5 was not cross-examined by the Ld. Counsel for defendants No. 2 and 3.

84. **PW6/Dr. V. K. Sahni, Consultant Orthopedic, Maharaja Agrasen Hospital, Punjabi Bagh, Delhi** deposed that Late Smt. Bimla

Dutta, aged about 72 years, was admitted to the hospital on 29.11.2007 after sustaining a fracture of her right hip due to a fall in the bathroom. He stated that she underwent Proximal Femoral Nailing (PFN) surgery under spinal anaesthesia and was discharged on 01.12.2007 after satisfactory recovery. He further deposed that she was again admitted on 28.04.2008 after another fall caused by vertigo and underwent implant removal and cemented bipolar replacement of the right hip on 30.04.2008 before being discharged on 04.05.2008. PW-6 identified the relevant medical records, including the history sheet dated 30.11.2007 Ex. PW-6/A and the treatment sheets dated 29.04.2008, 30.04.2008 and 04.05.2008 Ex. PW-6/B to Ex. PW-6/E, bearing his signatures.

85. During cross-examination by the Ld. Counsel for defendants No. 1, 4 and 5, PW-6 stated that he had been serving as an Orthopedic Consultant at Maharaja Agrasen Hospital since August 1993 and had no personal knowledge of the present litigation or interest in its outcome. He clarified that his testimony was based entirely on the hospital records supplied pursuant to the Court summons and that no one had assisted him in preparing his testimony. He further stated that he did not personally remember the patient, although the records showed that she had been admitted twice under his medical unit. PW-6 deposed that the records reflected that Smt. Bimla Dutta was suffering from bilateral blindness but clarified that, being an orthopedic specialist, he was not competent to certify blindness. He also explained that the patient's medical history is ordinarily recorded by resident doctors and may be based on information provided by the patient or accompanying relatives, though he had not

personally recorded the history in the present case. He agreed that medical evidence should be based on documentary records rather than personal memory. PW-6 was not cross-examined by the Ld. Counsel for defendants No. 2 and 3.

86. **PW7/Dr. K.K. Jindal, Head of Department, Neurology, Max Hospital, Shalimar Bagh, Delhi** deposed that in April 2008 he was serving as a Junior Consultant in the Department of Neurology at Maharaja Agrasen Hospital under the supervision of Dr. R.M. Dhamija. He stated that Mrs. Bimla Dutta had been admitted to the Orthopaedics Department of the hospital and that his deposition was based entirely on the medical records available on the Court record. He identified the indoor case file of Mrs. Bimla Dutta, already Ex. PW-1/7, and stated that it recorded a history of diabetes mellitus, hypertension, and an old stroke suffered in 1997 from which the patient had completely recovered. He further deposed that the medical history recorded on Ex. PW-1/7 from Point A to Point A' was in his own handwriting, while also clarifying that Ex. PW-1/7 was an incomplete document. PW7 further identified the OPD prescription dated 12.09.2006 issued by Dr. R.M. Dhamija, having recognized Dr. Dhamija's handwriting and signatures from working under his supervision between 2007 and 2011. The prescription, exhibited as Ex. PW-7/1, recorded medicines prescribed for the treatment of hypertension and stroke. Despite being afforded an opportunity, the defendants did not cross-examine PW7, and consequently, his testimony remained unchallenged.

87. **PW8/Shri Deepak Jain, Handwriting and Finger Print Expert,**

Chamber no. T-20, Tis Hazari Courts, Delhi tendered his evidence by way of affidavit Ex. PW8/A and relied upon his handwriting examination report dated 10.05.2026 Ex. PW8/1, along with 23 photographs Ex. PW8/2. He deposed that he has always practiced as a private handwriting expert, has never been employed with any Government forensic agency, and that there is no statutory requirement in India for certification of handwriting experts. He asserted that he possesses the requisite skill, experience, and knowledge in the science of handwriting comparison.

88. During cross-examination, PW8 admitted that the General Power of Attorney dated 28.09.1999 examined by him was only a photocopy and not the original document. He further admitted that pen pressure, line quality, ink flow, pressure patterns, and indentations could not be examined from photocopies and that he had not examined any original admitted signatures of Late Shri Sudershan Kumar Dutta or personally witnessed him signing any document. He also acknowledged that photocopies are capable of manipulation and that his report did not contain any opinion regarding the age of the ink.

89. PW8 further deposed that although he was aware of advanced forensic techniques such as ESDA (Electrostatic Detection Apparatus), he did not employ the same because both the disputed and comparative signatures were available only as photocopies. He stated that the process of comparison was neither photographed nor videographed, as such recording is not required in handwriting examination. He explained that writing speed can be scientifically assessed from stroke quality, letter formation, and hand movement, and that these parameters were

considered while preparing his report. He also stated that genuine signatures naturally vary due to factors such as writing speed, writing conditions, writing instruments, available space, or advancing age.

90. PW8 further deposed that he had examined only those comparative signatures referred to in his report and denied that the number of comparative signatures was inadequate. Although his examination of angles, curves, spacing, and letter formation was based entirely on photocopies, he denied that the photocopying process materially distorted these characteristics so as to affect his conclusions. He further stated that he had previously deposed as a handwriting expert in more than 1,000 cases before various Courts and tribunals, had no personal knowledge of the facts of the present case or acquaintance with any of the parties, and had prepared his report independently. He admitted having received professional fees from the plaintiff for rendering his expert opinion but denied that the same had affected his independence or that he was deposing falsely.

Despite being afforded an opportunity, defendant nos. 2 and 3 did not cross-examine PW8, and his testimony remained unchallenged by them.

After cross examination, plaintiff evidence was closed

Final arguments

91. I have heard Shri K. Sunil Ld. Counsel for plaintiff, Shri Chiraayu Trehan, Ld. Counsel for defendant no.1, 4 and 5 and Shri Sushil Tripathi, Ld. Counsel for defendant no.2 and 3 and perused the record.

Arguments by Ld. Counsel for plaintiff.

92. The plaintiff submits that defendant no. 1 failed to discharge the burden of proving Issue No. 1, as he did not establish that the Sant Nagar property was lawfully purchased from late Smt. Bimla Rani. According to the plaintiff, the medical evidence of PW-5, PW-6, and PW-7 conclusively proves that Smt. Bimla Rani was suffering from serious neurological ailments, paralysis, diminished eyesight, and impaired mental capacity, rendering her incapable of understanding or executing the alleged sale documents. In contrast, defendant no. 1 produced no medical evidence to prove that she was medically fit, thereby inviting an adverse inference.

93. The plaintiff further contends that defendant no. 1 failed to prove payment of the alleged sale consideration. During cross-examination, he gave contradictory statements regarding the source of funds, admitted that the alleged cash transactions were not reflected in his income tax records, failed to produce any documentary evidence of his financial capacity, and could not explain the utilisation of the alleged consideration by his mother. The plaintiff also pointed out that defendant no. 1's version regarding transfer of the electricity connection was contradicted by the evidence of PW-4 from BSES, who proved that the connection was transferred only after the death of Smt. Bimla Rani, thereby casting serious doubt on the alleged sale transaction.

94. The plaintiff further argued that defendant no. 1 contradicted the recitals of the original registered sale deed by introducing an oral story that the purchase money had been contributed by his maternal uncles, despite having no documentary proof or personal knowledge of the

alleged contribution. The plaintiff also submits that defendant no. 1 exercised complete control over his mother during the relevant period and prevented the plaintiff from meeting her, thereby creating serious suspicion regarding the genuineness of the impugned sale deeds.

95. According to the plaintiff, the testimony of PW-5 further establishes that Smt. Bimla Rani's neurological condition adversely affected her cognitive functions. Her blindness, diminished eyesight, paralysis, fractured hip, and mental incapacity rendered the alleged execution of the sale deeds highly doubtful. The plaintiff also challenges the testimony of defendant nos. 4 and 5, who were closely related to defendant no. 1, and submits that their evidence does not inspire confidence, particularly the claim that Smt. Bimla Rani personally counted Rs.6,00,000/- in cash despite her serious medical condition.

96. The plaintiff also relied upon defendant no. 1's own admissions that his mother was receiving treatment under the CGHS Scheme and that she had been blind, paralysed, and bedridden for several years, which directly contradicts his plea that she was medically fit to execute the sale deeds. The plaintiff further contended that defendant no. 1 lacked the financial capacity to purchase the property, as he admitted earning only Rs.3,500/- to Rs.4,500/- per month and failed to produce any income tax returns or other evidence showing that he possessed the alleged sale consideration.

97. With respect to Issue No. 2, the plaintiff submitted that defendant no. 1 failed to prove the alleged chain of title relating to the Mohan Garden property. The plaintiff emphasized that the most material witness, Shri Manjeet Singh, and the attesting witnesses to the alleged transactions

were never examined, thereby warranting an adverse inference. The plaintiff also pointed out that defendant no. 5 was unable to explain even the basic particulars of the alleged transactions and that defendant no. 1 failed to prove the source or payment of consideration at every stage of the alleged transfers.

98. The plaintiff further submitted that defendant no. 1 initially denied his father's signatures on the principal sale documents relating to the Mohan Garden property and later changed his stand. Since the original transfer documents were unregistered, the plaintiff contended that they were incapable of conveying any valid title, and subsequent registered documents could not cure the defects in the chain of title. The plaintiff also relied upon defendant no. 1's admission that he could not even remember when he allegedly purchased the Mohan Garden property, which further undermined his credibility.

99. With regard to Issue nos. 3 and 4, the plaintiff submitted that as neither the Sant Nagar property nor the Mohan Garden property was lawfully transferred or partitioned during the lifetime of the deceased parents, both properties continued to belong to them and, upon their deaths intestate, devolved equally upon all four children. The plaintiff argued that each of the four siblings is entitled to an equal one-fourth share and relied upon ***Vineeta Sharma v. Rakesh Sharma 2020 INSC 487***. to emphasize that daughters enjoy equal inheritance rights with sons.

100. The plaintiff contended that the defendants' reliance on the absence of a Hindu Undivided Family (HUF) or HUF bank account is wholly irrelevant because the plaintiff's claim is founded upon succession after

the deaths of the parents and not upon the existence of an HUF. Accordingly, the plaintiff seeks a preliminary decree declaring that the plaintiff and defendants no. 1, 2, and 3 are each entitled to an equal one-fourth share in both the Sant Nagar and Mohan Garden properties and, if partition by metes and bounds is impracticable, for sale of the properties with equal distribution of the sale proceeds among all four legal heirs.

101. Ld. Counsel for plaintiff has relied upon the following case laws in support of his arguments : ***Shanti Devi (since deceased) Through LRs Goran v. Jagan Devi 2025 INSC 1105, Mahnoor Fatima Imran and ors. v. M/s Visheswara Infrastructure Pvt. Ltd. 2025 INSC 646 and Vineeta Sharma v. Rakesh Sharma and ors. 2020 INSC 487.***

Arguments by Ld. Counsel for defendant no.1, 4 and 5.

102. The defendants argued that the suit was misconceived, devoid of any cause of action, and liable to be dismissed with exemplary costs as the plaintiff failed to prove the existence of any Hindu Undivided Family (HUF) or establish any right, title, or interest in the suit properties. They contended that no HUF deed, bank account, PAN card, income tax return, or other documentary evidence was produced to show that the properties were HUF assets and relied on the registered sale deed of 23.04.1969 and the plaintiff's admissions to establish that the Tilak Nagar property was the self-acquired property of late Smt. Bimla Dutta.

103. The defendants further submitted that the plaintiff failed to prove the alleged public notice disowning defendant no. 1 and relied on the evidence of the Central Bank witness to show that late Shri Sudershan Kumar Dutta maintained only an individual bank account, thereby

disproving the existence of an HUF. They argued that the plaintiff also failed to establish that Smt. Bimla Dutta lacked the mental or physical capacity to execute the sale documents, as the medical records were not properly proved and the doctors examined did not certify her legal incapacity.

104. The defendants relied on the testimony of the medical witnesses and photographs and videos showing Smt. Bimla Dutta attending family functions and interacting normally to contend that she was not permanently bedridden, blind, or mentally incapacitated. They maintained that the sale documents executed in favour of defendant no. 1 formed a complete and valid chain of original documents, that the plaintiff failed to prove fraud, forgery, or undue influence, and that the suit was not maintainable in the absence of a challenge to the foundational title documents.

105. Regarding the Mohan Garden property, the defendants argued that the plaintiff failed to examine material witnesses and that the handwriting expert's opinion was unreliable because it was based on photocopied admitted signatures rather than original documents. They contended that the plaintiff failed to prove any defect in the chain of title or any illegality in the transfers. The defendants further submitted that the suit was speculative, vexatious, and filed after an unexplained delay to reopen long-concluded transactions. They argued that the plaintiff produced no independent witness or reliable evidence of fraud, coercion, or undue influence, and that Smt. Bimla Dutta never challenged or revoked the impugned documents during her lifetime, demonstrating that they were

voluntarily executed.

106. The defendants also contended that the plaintiff had suppressed material facts, acquiesced in the transactions, and failed to rebut the statutory presumption attached to the registered documents. They therefore prayed that the suit be dismissed with exemplary costs, that the validity of the documents executed in favour of defendants no. 1, 4, and 5 be upheld, and that all consequential reliefs sought by the plaintiff be rejected.

107. Ld. Counsel for defendant no. 1, 4 and 5 has relied upon the following case laws in support of his arguments : ***Anathula Sudhakar v. P. Buchi Reddy***, (2008) 4 SCC 594, ***Surhid Singh Alias Sardool Singh v. Randhir Singh*** (2010) 12 SCC 112, ***Abbas Ahmad Choudhary v. State of Assam*** (2010) 12 SCC 115, ***Magan Bihari Lal v. State of Punjab*** (1977) 2 SCC 110, ***S. Gopal Reddy v. State of A.P.*** (1996) 4 SCC 596, ***H. Siddiqui (Dead) by LRs v. A. Ramalingam*** (2011) 4 SCC 240, ***Commissioner of Wealth Tax Kanpur and others v. Chander Sen and others*** (1986) 3 SCC 567, ***Ranganayakamma and other v. K.S Prakash (Dead) through LRs and others*** (2008) 15 SCC 673, ***Prem Singh v. Birbal*** (2006) 5 SCC 353 and ***Yudhister v. Ashok Kumar*** (1987) 1 SCC 204.

Arguments by Ld. Counsel for defendant no.2 and 3.

108. The plaintiff argued that both the Sant Nagar and Rajpur Khurd properties remained joint properties of late Shri Sudarshan Kumar Dutta and late Smt. Bimla Rani @ Bimla Dutta, as defendant no. 1 failed to prove any valid transfer or lawful ownership despite the burden placed

upon him. The plaintiff contended that defendant no. 1 failed to establish payment of the alleged sale consideration, produce any documentary proof of his financial capacity, or rebut the medical evidence showing that Smt. Bimla Dutta suffered from serious physical and mental incapacity, thereby rendering the alleged sale deeds invalid. The plaintiff further submitted that defendant no. 1 withheld the best available evidence regarding his mother's medical condition and financial resources, warranting an adverse inference. Regarding the Rajpur Khurd property, they argued that the alleged transfers were based on unregistered documents incapable of conveying valid title and that subsequent registered documents could not cure the defective chain of title. The plaintiff therefore prayed that both properties be treated as joint estate of the deceased parents and partitioned equally among the plaintiff and defendants nos. 1 to 3, each being entitled to a one-fourth share.

109. Ld. Counsel for defendant no.2 and 3 also relied upon following case laws in support of his arguments: ***Kewal Krishnan v. Rajesh Kumar & Ors. Etc. Civil Appeal no. 6989-6992 of 2021 in SLP (C) 2022-2023 of 2016 decided on 22.11.2021, Gopal, Krishnaji Ketkar v. Mahomed Haji Latif and Ors decided on 19.04.1968, Hari Ram v. State of Rajasthan & Ors. 2026 INSC 350 and Mahnoor Fatima Imran and Others v. M/s Visweswara Infrastructure Pvt. Ltd. 2025 INSC 646.***

Court observation and findings

Legal Principles governing adjudication of the present suit

110. The controversy in the present case concerns the validity of alleged inter vivos transfers, the nature of the suit properties, the burden of

proving exclusive ownership, the legal effect of transactions executed by an aged and infirm executant, and the rights of legal heirs claiming succession after the death of their parents. The determination of these issues necessarily requires an examination of the statutory provisions as well as the judicial principles laid down by the Hon'ble Supreme Court and the Hon'ble High Court of Delhi.

I. Principles Governing Burden of Proof

111. Sections 104 to 106 BSA provide that whoever asserts the existence of a fact must prove it. Section 104 provides that whoever desires a Court to give judgment as to any legal right or liability dependent upon the existence of facts which he asserts must prove that those facts exist. Section 105 further provides that the burden of proof initially lies upon the party who would fail if no evidence at all were led. Section 106 lays down that the burden of proving any particular fact lies upon the person who wishes the Court to believe in its existence unless the law otherwise provides.

112. The Hon'ble Supreme Court has consistently held that the burden of proof is not static. Although the initial burden lies upon the party asserting a fact, the evidentiary burden may shift during the course of trial depending upon the evidence adduced by either side.

113. In **Anil Rishi v. Gurbaksh Singh, (2006) 5 SCC 558**, the Supreme Court held that while the legal burden remains fixed, the onus of proof shifts according to the evidence produced by the parties. Similarly, in **Rangammal v. Kuppuswami, (2011) 12 SCC 220**, it was held that a plaintiff cannot succeed merely because the defendant's case appears

weak. The plaintiff must establish his own case by leading legally admissible evidence. Applying these principles to the present case, the burden regarding each issue may be analysed separately.

Burden regarding Issue no.1

114. Since defendant no.1 asserted that late Smt. Bimla Dutta voluntarily transferred the Sant Nagar property in his favour by executing documents dated 27.06.2003 and 15.02.2008, the burden squarely rests upon defendant no.1 to establish execution of the documents; voluntary execution; sound disposing state of mind of the executant; passing of lawful consideration and genuineness of the transactions.

115. The plaintiff is not required to prove a negative fact that the transactions never took place. Rather, the party relying upon the documents must first establish their legal validity.

Burden regarding Issue no.2

116. Similarly, defendant no.1 relies upon a chain of title commencing with an alleged transfer by late Shri Sudershan Kumar Dutta in favour of Shri Manjeet Singh. Therefore, defendant no.1 carries the burden of proving each link of the alleged chain. If any link fails, the entire chain necessarily collapses.

Burden regarding Issue no.3

117. The burden of establishing entitlement to partition initially rests upon the plaintiff. However, once the plaintiff establishes that the parties are legal heirs of the deceased owners and the defendants fail to establish exclusive title by valid transfer, succession follows according to law. In such circumstances, the plaintiff's burden stands discharged.

II. Law Relating to Hindu Undivided Family Property

118. The plaintiff has pleaded that the suit properties constitute Hindu Undivided Family properties. The expression "joint family" is often misunderstood. A Hindu joint family and joint family property are distinct legal concepts. A Hindu family may undoubtedly be joint. However, every property standing in the name of a member of the family cannot automatically become joint family property. This principle has been repeatedly emphasized by the Supreme Court.

119. In *Adivappa & Ors. v. Bhimappa & Anr.*, AIR 2017 SC 4465 the Supreme Court held that while there is a presumption regarding the existence of a joint Hindu family, there is no corresponding presumption that every property owned by the family is joint family property. The party asserting that a property belongs to the HUF must establish that it was acquired from joint family funds or from an ancestral nucleus sufficient to make such acquisition.

120. The Court further held that only after the plaintiff proves the existence of an ancestral nucleus capable of acquisition does the burden shift upon the person claiming the property to be self-acquired. The same principle has been reiterated in *Mallesappa Bandeppa Desai v. Desai Mallappa*, AIR 1961 SC 1268; *D.S. Lakshmaiah v. L. Balasubramanyam*, (2003) 10 SCC 310; *K.V. Narayanan v. K.V. Ranganathan*, (1976) 1 SCC 543. Thus, mere existence of a joint family does not dispense with proof regarding the source of acquisition.

121. The plaintiff must establish existence of an ancestral nucleus; adequacy of such nucleus and acquisition of the disputed property from

that nucleus. Failure to establish these foundational facts results in rejection of the plea of HUF property. Nevertheless, rejection of the plea regarding HUF property does not automatically validate the defendant's claim of exclusive ownership. The defendant must independently establish his own title.

III. Law Relating to Challenge to Sale Documents

122. Ordinarily, documents executed by parties are presumed to represent their intention. However, where allegations of fraud, coercion, undue influence or lack of mental capacity are raised, the Court is under an obligation to scrutinize the surrounding circumstances.

123. The Supreme Court in *Prem Singh (supra)*, observed that although registered documents carry a presumption of legality, such presumption is rebuttable. The Court further held that where circumstances indicate fraud or illegality, the Court is competent to examine the true nature of the transaction. Similarly, in *Krishna Mohan Kul v. Pratima Maity, (2004) 9 SCC 468*, the Supreme Court observed that transactions executed by aged, infirm or illiterate persons require careful judicial scrutiny. Particular caution is necessary where the beneficiary actively participated in the execution; the executant was dependent upon the beneficiary; independent witnesses are absent; consideration remains doubtful or suspicious circumstances surround execution. In such situations, the Court is required to insist upon strict proof.

IV. Presumption Regarding Registered Documents

124. Defendant no.1 has heavily relied upon the fact that the documents executed by late Smt. Bimla Dutta were registered. Registration

undoubtedly raises a presumption regarding due execution. However, the presumption is not conclusive. The Registration Act merely certifies that a document has been registered in accordance with statutory procedure. Registration does not conclusively establish: voluntariness; free consent; mental capacity; passing of consideration or absence of undue influence.

125. The Supreme Court in ***Prem Singh (supra)***, explained that registration is only one circumstance among many and cannot cure fraud or illegality. Similarly, in ***Ranganayakamma v. K.S. Prakash, (2008) 15 SCC 673***, it was held that documents obtained through undue influence or coercion remain liable to be avoided despite registration.

126. Accordingly, where surrounding circumstances generate suspicion, the Court must examine the transaction independently rather than mechanically relying upon registration.

V. Effect of Medical Incapacity of the Executant

127. The plaintiff has alleged that late Smt. Bimla Dutta suffered from paralysis, deteriorating eyesight, hip fracture and neurological impairment. The medical records relied upon by the plaintiff indicate that she had been under continuous medical treatment and had become physically vulnerable. Defendant no.1 also admitted that she was illiterate and affixed only thumb impressions. The law is well settled that transactions executed by elderly, illiterate or infirm persons are not invalid merely because of age or illness.

128. However, once credible evidence demonstrates vulnerability and the beneficiary stood in a position of dominance or confidence, the burden becomes substantially heavier upon the beneficiary to establish

that the executant understood the nature and effect of the transaction and acted of his or her own free will.

129. This principle is central to the present dispute, emphasizing that where an old, illiterate or medically vulnerable person allegedly executes documents benefiting one family member, the beneficiary must prove voluntary and informed execution. Therefore, medical incapacity is not by itself decisive, but it is a highly relevant circumstance requiring strict judicial scrutiny of the evidence concerning execution, understanding, voluntariness and consideration.

Issue no. 1 Whether property bearing no. WZ-27B (now WZ-12B), Sant Nagar, Tilak Nagar, New Delhi, was purchased by defendant no.1 from late Smt. Bimla Dutta as alleged in the written statement? (OPD-1)

130. The onus to prove this issue rests upon defendant no.1, who asserted that he became the exclusive owner of the Sant Nagar property by virtue of two sets of documents allegedly executed by late Smt. Bimla Dutta, namely, documents dated 27.06.2003 relating to the first floor and documents dated 15.02.2008 relating to the ground floor. The defence of defendant no.1 is that both transfers were voluntary transactions supported by valid consideration and executed by Smt. Bimla Dutta while she was in a sound physical and mental condition.

131. The plaintiff, on the other hand, has challenged the very foundation of these transactions by contending that Smt. Bimla Dutta was an elderly, illiterate and medically vulnerable lady suffering from paralysis, deteriorating eyesight and loss of memory, and that defendant no.1, who was residing with her, exercised undue influence and obtained documents

in his favour by taking advantage of her helpless condition. The plaintiff has further pleaded that no genuine consideration ever passed and that the alleged transactions were sham transactions intended to deprive the remaining legal heirs of their lawful rights. Before appreciating the evidence, it is necessary to notice the settled legal principles governing the controversy.

132. Sections 104 to 106 BSA provide that the burden of proving a fact lies upon the person who asserts its existence. Since defendant no.1 claims exclusive ownership by virtue of transactions executed by his mother, the entire burden to establish the legality, validity and due execution of those transactions rests upon him.

133. It is equally settled that although a registered document carries a presumption regarding its execution, such presumption is only rebuttable. Where the executant is shown to be an old, illiterate, infirm or dependent person and the beneficiary occupied a position of active confidence, the burden becomes much heavier upon the beneficiary to establish that the document represented the free, conscious and voluntary act of the executant. Mere production of a registered document is not sufficient where suspicious circumstances surround its execution.

134. The Hon'ble Supreme Court in ***Krishna Mohan Kul v. Pratima Maity, (2004) 9 SCC 468***, held that where the beneficiary occupies a dominant position and the executant is aged or infirm, the Court must scrutinize the transaction with greater care. Similarly, in ***Prem Singh (supra)***, it was observed that although a registered document enjoys a presumption of validity, such presumption can be displaced by cogent

evidence demonstrating fraud, undue influence or lack of free consent. Keeping these settled principles in mind, the evidence led by defendant no.1 is required to be examined.

135. Defendant no.1 has relied upon the registered General Power of Attorney, Agreement to Sell, Receipt, Possession Letter and Will dated 27.06.2003 and another similar set of documents dated 15.02.2008. However, mere production of these documents cannot by itself establish that Smt. Bimla Dutta consciously intended to transfer the entire property to one son excluding all the remaining children.

136. The first circumstance which creates serious doubt regarding the defence version relates to the financial capacity of defendant no.1. During his cross-examination, defendant no.1 admitted that in the year 2003 he was earning only about Rs.3,500/- to Rs.4,500/- per month. He further claimed that he paid Rs.80,000/- in cash in the year 2003 and Rs.6,00,000/- in cash in the year 2008. Surprisingly, despite such substantial alleged payments, no bank statement, income-tax return, withdrawal slip, loan document, salary record or any other documentary evidence has been produced to demonstrate the availability of such huge cash amounts with him.

137. The absence of any documentary evidence regarding the source of consideration assumes considerable importance because defendant no.1 himself admitted that he had modest earnings. In ordinary human conduct, a salaried employee drawing a monthly salary of only a few thousand rupees would not ordinarily possess several lakhs of rupees in

cash without maintaining any documentary record. The explanation furnished by defendant no.1 is wholly unconvincing.

138. The second circumstance concerns the ownership of the property itself. Defendant no.1 attempted to justify the acquisition of the property by alleging that the purchase money had been arranged by the maternal uncles of the parties. However, during cross-examination he admitted that he was born after the alleged purchase and therefore had no personal knowledge regarding the source of funds. His statement is admittedly based merely upon hearsay. No independent witness or documentary record has been produced to substantiate this plea.

139. The third and most significant circumstance relates to the medical condition of Smt. Bimla Dutta. The plaintiff has placed on record medical documents showing that Smt. Bimla Dutta had suffered a paralytic attack, had become physically weak, had poor eyesight, suffered a hip fracture and remained under continuous treatment. The testimonies led by the plaintiff as well as defendants no.2 and 3 consistently establish that her physical condition had substantially deteriorated during the relevant period. Defendant no.1 himself admitted that she was illiterate and used to affix only her thumb impressions.

140. It is noteworthy that defendant no.1 has not examined any independent medical witness to establish that despite her ailments she possessed complete mental alertness and fully understood the nature of the documents allegedly executed by her. Equally, none of the attesting witnesses has satisfactorily deposed that the contents of the documents

were read over and explained to the executant before obtaining her thumb impressions.

141. Another significant circumstance is the timing of the second transaction dated 15.02.2008. The evidence on record demonstrates that these documents came into existence only a few months before the death of Smt. Bimla Dutta. By that time serious disputes had already arisen within the family. Guardianship proceedings had already been initiated and there were repeated allegations regarding the physical condition of the mother and disputes among the siblings. Yet, defendant no.1 would have the Court believe that under such circumstances the mother voluntarily transferred the entire remaining portion of the property exclusively in his favour without making any provision for her other children. This conduct appears highly unnatural.

142. Equally significant is the admitted fact that defendant no.1 did not immediately seek mutation of the property during the lifetime of his mother despite allegedly becoming its absolute owner. This conduct is inconsistent with the behaviour ordinarily expected of a genuine purchaser. The evidence of the official witness from the office of the Sub-Registrar also does not advance the defence case. The said witness merely proved the registration entries but categorically admitted that he had no personal knowledge regarding the execution of the documents or the physical and mental condition of the executant. Registration proves only that documents were presented and registered in accordance with procedural requirements. It does not establish that the executant acted voluntarily or possessed complete understanding of the transaction. This

is not a decisive circumstance by itself, but it corroborates the Court's finding that defendant no.1 failed to establish exclusive ownership.

143. The Court also cannot ignore the conduct of defendant no.1 throughout the litigation. Material contradictions have emerged regarding his financial capacity, the source of funds and the surrounding circumstances of execution. These inconsistencies materially affect his credibility. Although defendants no.2 and 3 have supported the plaintiff, the Court is conscious that their evidence requires cautious scrutiny because they are also interested in the outcome of the litigation. Nevertheless, their testimony regarding the deteriorating health of the mother finds substantial corroboration from the medical record and from admissions made by defendant no.1 himself. Therefore, merely because they are interested witnesses does not render their evidence unreliable.

144. The plaintiff has pleaded that the property constituted HUF property. However, even assuming for the sake of argument that the plaintiff has not conclusively established the HUF character of the property, that by itself does not validate the alleged transfers. The validity of the transfer documents has to be independently examined. A transaction brought about by fraud, undue influence or absence of free consent cannot be sustained merely because the plaintiff fails on the plea of HUF.

145. The statement of defendant no.1 recorded under Order X CPC assumes significance. Defendant no.1 admitted that he resides only on the first floor of property no. WZ-12B (earlier WZ-27B), whereas one room on the ground floor is occupied by Ms. Asha Rani, who, according to

him, does not pay any rent and was formerly employed by him as a domestic help. This statement does not indicate exclusive possession of the entire property despite the plea that the entire property had already been transferred absolutely in his favour. The statement further reflects that the occupation of different portions of the property remained uncertain and does not support the plea of complete ownership asserted by defendant no.1.

146. Having considered the entire oral and documentary evidence, the Court is of the opinion that defendant no.1 has failed to establish that Smt. Bimla Dutta voluntarily and consciously executed the impugned documents after understanding their contents. The evidence regarding consideration is wholly unsatisfactory. The financial capacity of defendant no.1 remains unproved. The medical evidence establishes serious physical vulnerability of the executant. Independent evidence regarding voluntary execution is conspicuously absent. The surrounding circumstances create grave suspicion regarding the genuineness of the alleged transactions.

147. The cumulative effect of these circumstances completely demolishes the defence set up by defendant no.1. Accordingly, the Court holds that defendant no.1 has failed to discharge the burden cast upon him under Sections 104 to 106 BSA. The alleged transfer documents dated 27.06.2003 and 15.02.2008 cannot be accepted as voluntary and genuine transactions conferring exclusive ownership upon defendant no.1. Issue no.1 is, therefore, decided against defendant no.1 and in favour of the plaintiff.

Issue no. 2 Whether property bearing Plot no. 63, Khasra no. 17/11, Village Rajpur Khurd (Hemant Vihar, Mohan Garden, New Delhi) was sold by late Shri Sudershan Kumar Dutta to Shri Manjeet Singh and was thereafter purchased by defendant no.1, as alleged in the written statement? (OPD-1)

148. The burden of proving this issue also rests exclusively upon defendant no.1, who has asserted that the Hemant Vihar property had ceased to belong to late Shri Sudershan Kumar Dutta during his lifetime by virtue of a series of transactions commencing with an alleged transfer in favour of Shri Manjeet Singh, followed by a transfer in favour of defendant no.1, thereafter in favour of defendant no.4 and finally in favour of defendant no.5. Defendant no.1 has thus contended that neither the plaintiff nor defendants no.2 and 3 possess any right, title or interest in the said property.

149. The plaintiff has disputed the entire chain of title by asserting that the alleged transfers are sham and collusive transactions engineered only to defeat the rights of the legal heirs. It is the plaintiff's case that defendant no.1, in collusion with defendants no.4 and 5, fabricated documents and hurriedly transferred the property within the family immediately before the death of Smt. Bimla Dutta so as to create artificial third-party rights.

150. The principal question before the Court is whether defendant no.1 has succeeded in proving a valid and lawful chain of title beginning from late Shri Sudershan Kumar Dutta and culminating in defendant no.5.

151. At the outset, it is pertinent to observe that every subsequent transfer necessarily depends upon the validity of the preceding transfer. If the original transfer from late Shri Sudershan Kumar Dutta to Shri Manjeet Singh is not proved, the entire subsequent chain automatically collapses. It is a settled principle that no person can convey a better title than he himself possesses (*nemo dat quod non habet*).

152. The first reason which demolishes the defence version is the admission made by defendant no.1 during his cross-examination. When confronted with the alleged General Power of Attorney purportedly executed by late Shri Sudershan Kumar Dutta, defendant no.1 categorically denied that the signatures appearing thereon were those of his own father. This admission strikes at the very root of the defence because the first document constituting the foundation of the alleged chain of title itself becomes doubtful. If defendant no.1 himself disputes the signatures of his own predecessor-in-interest, the Court cannot presume that the document was genuinely executed.

152. This admission assumes even greater significance because defendant no.1 has not examined any handwriting expert, attesting witness or document writer to establish the authenticity of the disputed signatures. Nor has any explanation been furnished as to how a transaction based upon a document whose execution is itself doubtful can create a valid title.

153. Secondly, defendant no.1 admitted that he had no knowledge regarding the preparation of the documents, the circumstances under which they were executed or the identity of the persons who prepared

them. Such admissions materially weaken the evidentiary value of the documents relied upon by him.

154. The second serious infirmity in the defence case is the complete failure to examine the material witness, namely Shri Manjeet Singh. According to defendant no.1, Shri Manjeet Singh was the intermediary purchaser who allegedly purchased the property from late Shri Sudershan Kumar Dutta and thereafter transferred it to defendant no.1. Surprisingly, Shri Manjeet Singh has not entered the witness box. No explanation whatsoever has been offered for withholding such a crucial witness. The testimony of Shri Manjeet Singh was indispensable to establish payment of sale consideration, execution of the documents, delivery of possession, circumstances under which the transaction took place, and genuineness of the transfer.

155. The deliberate non-examination of the material witness invites an adverse inference under Section 119 illustration (g) BSA that had such evidence been produced, it would have gone against defendant no.1. The Supreme Court in ***Vidhyadhar v. Manikrao*, (1999) 3 SCC 573**, has held that where the party possessing the best evidence deliberately withholds it, the Court is justified in drawing an adverse inference.

156. The third circumstance which creates grave suspicion is the extraordinary sequence of transactions immediately preceding the death of Smt. Bimla Dutta. The evidence on record shows that defendant no.1 transferred the property to his own wife (defendant no.4) on 21.10.2008 and defendant no.4 transferred the same property to her own sister, defendant no.5, on the very next day i.e., 22.10.2008. These successive

transfers within a span of merely twenty-four hours cannot be viewed as ordinary commercial transactions. They indicate an attempt to create layered ownership within close family members.

157. Ordinarily, genuine property transactions involve negotiation, verification of title, payment of consideration, delivery of possession and completion of formalities over a reasonable period. The haste with which the property changed hands from husband to wife and thereafter from one sister to another raises serious suspicion regarding the bona fides of the transactions.

158. The conduct of defendant no.5 also does not inspire confidence. Her testimony during cross-examination is marked by material contradictions regarding the source of consideration. At one stage she stated that the purchase money had been arranged by her husband, whereas subsequently she deposed that the amount had been paid from her own savings. Such inconsistent explanations materially impair her credibility regarding the genuineness of the transaction.

159. Equally significant is the absence of any convincing documentary evidence demonstrating actual payment of sale consideration. Neither bank statements, withdrawal slips, income tax records nor any independent documentary evidence has been produced to establish that genuine monetary consideration passed between the parties.

160. The statement of defendant no.5 recorded under Order X CPC further weakens the defence. She admitted that before purchasing the property she did not remember whether she had verified the chain of title documents. She further admitted that the entire alleged consideration of

Rs.2,50,000/- was paid in cash although she is admittedly a housewife. No documentary record regarding availability of funds or payment has been produced. These admissions materially weaken her plea that she is a bona fide purchaser for valuable consideration after due diligence.

161. The Court is unable to overlook another important aspect. The entire chain of title relied upon by defendant no.1 substantially consists of documents such as General Power of Attorney, Agreement to Sell, Receipt, Will and Possession Letter. The Hon'ble Supreme Court in ***Suraj Lamp & Industries (P) Ltd. v. State of Haryana, (2012) 1 SCC 656***, has authoritatively held that transactions based merely upon GPA, Agreement to Sell and Will do not by themselves convey ownership in immovable property. Such documents may create certain contractual rights but cannot substitute a legally recognised conveyance. Similarly, in ***Vinod Infra Developers Ltd. v. Mahaveer Lunia & Ors. 2025 INSC 772***, the Supreme Court reiterated that title in immovable property cannot pass merely through unregistered contractual documents or GPA transactions and that lawful conveyance must satisfy the requirements of law. The legal principle emerging from these decisions completely undermines the foundation of the defence case, particularly where the alleged chain of title itself remains unproved.

162. Defendant no.5 has pleaded that she is a bona fide purchaser for valuable consideration. However, the doctrine of bona fide purchaser can operate only where the vendor himself possesses a valid and transferable title. If defendant no.1 failed to establish lawful acquisition of title,

neither defendant no.4 nor defendant no.5 could derive any better title therefrom.

163. A bona fide purchaser is expected to satisfy himself regarding the title of the vendor. Defendant no.5 herself admitted that she could not even state whether she had examined the chain of title before purchasing the property. Such admission is wholly inconsistent with the standard of due diligence expected from a bona fide purchaser and substantially undermines the protection claimed by her. This strengthens the rejection of the bona fide purchaser defence.

164. The principle *nemo dat quod non habet* squarely applies. Moreover, the close relationship between defendants no.1, 4 and 5, the extraordinary speed of the transfers, the absence of satisfactory proof of consideration and the serious infirmities in the foundational documents together negate the plea of bona fide purchase.

165. The Court is unable to ignore that defendants no.2 and 3 have consistently supported the plaintiff's case and have denied the genuineness of the impugned transfers. Although they are interested witnesses, their testimony receives corroboration from the documentary deficiencies and admissions elicited during the cross-examination of defendant no.1.

166. Having considered the entire evidence in its proper perspective, the Court is satisfied that defendant no.1 has completely failed to prove the alleged chain of title beginning from late Shri Sudershan Kumar Dutta and ending with defendant no.5. The original transfer itself remains doubtful. The intermediary purchaser has not been examined. The

documents relied upon suffer from serious infirmities. The consideration has not been proved. The subsequent transfers appear to be collusive intra-family transactions intended to create artificial third-party rights. The defence version is wholly unreliable.

167. Accordingly, defendant no.1 has failed to discharge the burden placed upon him under Sections 104 to 106 BSA. Issue no.2 is, therefore, decided against defendant no.1 and in favour of the plaintiff.

Issue no. 3 Whether the plaintiff is entitled to the decree of partition as claimed? (OPP)

168. The onus to prove this issue was placed upon the plaintiff. The plaintiff has sought a preliminary decree declaring that he and defendants no.1 to 3 are each entitled to one-fourth share in the movable and immovable properties left behind by late Shri Sudershan Dutta and late Smt. Bimla Dutta. He has also prayed for a declaration that the documents executed in favour of defendants no.1, 4 and 5 are null and void and for a consequential decree of permanent injunction restraining alienation of the suit properties.

169. Defendant no.1 has resisted the suit by contending that neither property forms part of the estate of the deceased parents since both properties had already been validly transferred during their lifetime. Defendants no.4 and 5 have adopted the same defence. On the other hand, defendants no.2 and 3 have supported the plaintiff throughout and have admitted that all four siblings are entitled to equal shares in the estate of their deceased parents.

170. Thus, the entitlement of the plaintiff depends upon two questions:

- (i) whether defendant no.1 has established exclusive ownership over the suit properties by virtue of valid transfers; and
- (ii) if not, whether the properties devolved upon the legal heirs after the death of the deceased parents.

Effect of Findings on Issues no.1 and 2

171. The Court has already held while deciding Issues no.1 and 2 that defendant no.1 has failed to establish the legality and validity of the alleged transfers in respect of both the Sant Nagar property and the Hemant Vihar property. The Court has found that the alleged documents executed by Smt. Bimla Dutta were surrounded by suspicious circumstances, unsupported by satisfactory proof of consideration, and were not proved to have been voluntarily executed by an elderly and medically vulnerable executant.

172. Similarly, the alleged chain of title concerning the Hemant Vihar property has also been held to be not proved because of the discrepancies in the foundational documents, the failure to examine material witnesses, the absence of proof regarding consideration and the collusive nature of the subsequent transfers. On these findings the inevitable consequence is that defendant no.1 cannot claim exclusive ownership over either of the suit properties.

Whether plaintiff proved HUF?

173. The plaintiff has consistently pleaded that both properties constituted properties of a Hindu Undivided Family. However, opinion that the evidence led by the plaintiff is insufficient to conclusively

establish the existence of a coparcenary nucleus from which both properties were acquired.

174. The Hon'ble Supreme Court in *Adivappa & Ors. v. Bhimappa & Anr.*, (2017) 9 SCC 586, has reiterated that although there is a presumption that a Hindu family is joint, there is no presumption that every property standing in the name of a family member is joint family property. The burden lies upon the person asserting the HUF character to establish that the property was acquired from joint family funds or from an ancestral nucleus sufficient to make such acquisition.

175. In the present case, apart from making assertions in the pleadings, the plaintiff has not produced sufficient documentary evidence demonstrating the existence of any ancestral nucleus or HUF fund from which the suit properties were acquired. Accordingly, the plea that the properties were HUF properties cannot be accepted merely on the basis of relationship between the parties.

Devolution under the Hindu Succession Act

176. The failure of the plaintiff to establish the HUF character of the properties does not automatically validate the alleged transfers in favour of defendant no.1. Rather, the Court has already held that the alleged transfers themselves have not been proved in accordance with law. Consequently, the properties continued to remain vested in late Shri Sudershan Dutta and late Smt. Bimla Dutta during their lifetime.

177. It is an admitted position that late Shri Sudershan Dutta expired intestate on 04.07.2007 and late Smt. Bimla Dutta expired intestate on 30.10.2008. There is no plea or proof of any valid testamentary

disposition by either of them. In the absence of a valid Will or legally proved transfer, succession opens under the provisions of the Hindu Succession Act, 1956. Under Sections 8 and 15 of the Hindu Succession Act, the estate of a Hindu male and a Hindu female dying intestate devolves upon their Class-I heirs. It is undisputed that the plaintiff and defendants no.1, 2 and 3 are the only surviving children of the deceased parents. Therefore, each of them succeeds equally to the estate left by the deceased parents.

Validity of Subsequent Transfers

178. Defendants no.4 and 5 have claimed protection on the ground that they acquired the property through valid transactions. This contention cannot be accepted. Once defendant no.1 himself failed to establish lawful acquisition of title, the subsequent transfers executed by him or through him fail. It is a settled principle that a transferee cannot acquire a better title than that possessed by the transferor.

179. The Supreme Court in *Suraj Lamp & Industries Pvt. Ltd. (supra)*, held that GPA transactions do not by themselves convey ownership in immovable property. Similarly, *Vinod Infra Developers Ltd. (supra)* reiterates that title can pass only through a legally recognised mode of conveyance. Since the root of title itself has failed, every subsequent transaction founded thereon also becomes unenforceable against the lawful heirs.

Declaration

180. The plaintiff has further sought declaration that the documents executed in favour of defendants no.1, 4 and 5 are null and void. Section

34 of the Specific Relief Act empowers the Court to grant such declaration where the plaintiff establishes that the impugned instruments cloud his legal character or title.

181. In view of the findings already recorded under Issues no.1 and 2, the documents relied upon by defendants no.1, 4 and 5 cannot operate to defeat the lawful rights of the legal heirs. Accordingly, the plaintiff is entitled to a declaration that the impugned documents do not confer any valid or enforceable title against the estate of the deceased parents.

Permanent Injunction

182. The plaintiff has also sought permanent injunction restraining defendants from creating third-party interest. The evidence on record demonstrates that during the lifetime of the litigation, repeated attempts were made to alter the nature of the properties through successive transactions.

183. Where co-ownership is established and partition has not yet taken place, no co-owner can lawfully transfer or create exclusive rights in any specific portion so as to prejudice the rights of the remaining co-owners. Accordingly, till the properties are partitioned by metes and bounds through final decree proceedings, the interests of justice require that the properties be preserved.

184. Consequently, defendants no.1, 4, 5 and every person claiming through them deserve to be restrained from selling, transferring, alienating, mortgaging, creating any third-party interest or otherwise encumbering the suit properties without due process of law.

Movable Properties

185. The plaintiff has also sought partition of bank deposits and gold ornaments allegedly left behind by the deceased parents. However, except for general assertions in the pleadings, no reliable inventory, bank statement, locker details, valuation report or satisfactory evidence has been produced to establish the existence, nature or present custody of the alleged movable assets. A decree for partition of unspecified movable assets cannot be granted in the absence of cogent proof regarding their existence and identity. Accordingly, the claim relating to unspecified movable assets is liable to fail for want of evidence.

Conclusion

186. In view of the above discussions, the plaintiff has successfully established that defendant no.1 failed to acquire valid title to either of the immovable properties and that the subsequent transfers in favour of defendants no.4 and 5 do not confer any enforceable title. Although the plaintiff has failed to prove that the properties were HUF properties, he has succeeded in establishing that the impugned transfers are invalid and that, upon the intestate deaths of late Shri Sudershan Dutta and late Smt. Bimla Dutta, the estate devolved equally upon their four children under the Hindu Succession Act. Accordingly, the plaintiff, defendant no.1, defendant no.2 and defendant no.3 are each held entitled to one-fourth undivided share in the suit immovable properties. Issue no.3 is decided in favour of the plaintiff and against defendants no.1, 4 and 5.

Issue no. 4 Relief

187. Accordingly, the suit is partly decreed in the following terms:

(a) A preliminary decree for partition is passed declaring that the plaintiff, defendant no.1, defendant no.2 and defendant no.3 are each entitled to one-fourth (1/4th) undivided share in the following immovable properties:

(i) Property bearing no. WZ-12B (earlier WZ-27B), Sant Nagar, Tilak Nagar, New Delhi; and

(ii) Plot no. 63, Khasra no.17/11, Hemant Vihar, Mohan Garden, New Delhi.

(b) It is declared that the documents relied upon by defendant no.1 in respect of the Sant Nagar property and the subsequent documents forming the alleged chain of title in respect of the Hemant Vihar property shall not confer any valid or exclusive title against the plaintiff and defendants no.2 and 3, and shall not prejudice their lawful one-fourth undivided shares.

(c) A decree of permanent injunction is passed restraining defendant no.1, defendant no.4, defendant no.5, their agents, representatives, successors, assignees or any person claiming through them from selling, transferring, alienating, mortgaging, gifting, creating any third-party interest or otherwise encumbering the suit immovable properties to the prejudice of the rights of the plaintiff and defendants no.2 and 3 until partition is effected in accordance with law.

(d) The prayer relating to partition of unspecified movable assets, including alleged gold jewellery and bank deposits, is dismissed for want of satisfactory evidence, leaving it open to the parties to seek appropriate

remedies in accordance with law if any identifiable movable estate is subsequently discovered.

Having regard to the close relationship between the parties and the nature of the dispute arising out of succession to family properties, there shall be no order as to costs.

A preliminary decree be drawn accordingly.

**Announced in open Court
on 31st Day of July 2026**

**(Susheel Bala Dagar)
District Judge-08, West
Tis Hazari Courts, Delhi.**

(This judgment contains 68 pages.)