

New No.613035/16
Subhash Kathuria vs. Ashok Kumar

06.06.2017

Present : Counsel for the Plaintiff.
Proxy counsel for the Defendant.
Defendant No.5 in person.

Replication has been filed to the written statement of Defendant Nos. 1 to 4. Copy supplied. As per the report of process server, Defendant No.5 was served as far back on 03.04.2017. No written statement has been filed within the stipulated period nor any application has been filed seeking extension of time for filing the written statement. Defence of Defendant No.5 is accordingly struck off.

Following issues are hereby framed on the pleadings of the parties:-

i) Whether the Plaintiff has no right in the suit property in view of the Will dated 13.12.1991 executed by Sh.Hari Chand Kathuria in favour of Defendant No.1 and husband of Defendant No.2? OPD

ii) Whether the suit is barred by limitation? OPD

iii) Whether the suit property is liable to be partitioned as claimed by the Plaintiff? OPP

iv) Whether the Plaintiff is entitled to the relief of possession to the extent of 1/5th share, as prayed? OPP

v) Whether the Plaintiff is entitled to a decree of permanent injunction, as prayed? OPP

In view of the fact that the Defendant Nos.1 to 4 alleged that the

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suit property is not liable to be partitioned in view of the Will having been executed in their favour, I deem it appropriate to direct the Defendants to lead their evidence first.

Accordingly, the case is directed to be listed for DE on **06.09.2017**. Affidavit of DWs be filed within four weeks after giving advance copy to the Plaintiff.

(Kaveri Baweja)
Additional District Judge-03 (West)
Tis Hazari Courts: Delhi.
06.06.2017