

## Shakuntla Malik Vs. Gursaran Das Malik

06.08.2024

Present: Sh. Rahul Khanna, Ld counsel for the Plaintiff.

Affidavit of service of defendants has been filed by the plaintiff. Ld counsel for the plaintiff seeks pass over for filing copy of electricity bill.

Put up at 12.30 Pm.

(SHIV KUMAR)  
District Judge-02, Court no.127,  
West Distt, Tis Hazari courts  
Delhi:06.08.2024

At 2.15 Pm

Present: Sh. Rahul Khanna and Ms. Rakhi Sharma, Ld counsels for the Plaintiff.

Defendant no. 1, 7 & 9 have been served on 26.07.2024 but none has appeared on their behalf.

Three colour photographs, copy of electricity bill, pension paper of plaintiff and copy of passbook of Punjab National Bank in the name of plaintiff have been filed on behalf of the plaintiff. Same are taken on record.

Ld counsel for the plaintiff requests the court to allow his application filed under order 39 rule 1& 2 CPC and restrain the defendant no. 1 from transferring, alienating or creating third party

interest upon the suit property and also dispossessing the plaintiff from the ground floor of the suit property.

The plaintiff has placed the photographs, which show that the plaintiff is in possession of ground floor of the suit property and also attached copy of electricity bill of the suit property, which is, in the name of the mother of the plaintiff. In the pension documents, the permanent address of the plaintiff is shown as suit property. The passbook is also issued in the name of the plaintiff on the address of the suit property.

The application under order 39 rule 1 & 2 CPC is against the defendant no. 1, however, defendant no. 1 has not appeared despite service, therefore, application under order 39 rule 1 & 2 CPC is heard.

The present suit is filed by the plaintiff seeking partition, redemption of account and permanent injunction.

As the averment of the plaint, the plaintiff is residing at ground floor of the suit property. It is further alleged that in May, 2024, the children of defendant no. 1 tried to disposses the plaintiff by legal means from her portion of the suit property but they could not be succeeded in their attempts and since, thereafter, the defendant no. 1 along with his children are trying to sell the suit property.

In view of the abovesaid facts, the prima facie case and balance of convenience lies in favour of the plaintiff for granting stay in her favour and she will suffer irreparable loss, if defendant no. 1, his children and his representatives are not restrained. Hence, application of the plaintiff filed under order 39 rule 1 & 2 CPC is

allowed. The defendant no. 1, his children and his representatives are restrained from transferring, alienating or creating third party interest upon the suit property or creating hindrance and obstruction to the plaintiff for peaceful enjoyment of ground floor of the suit property and are also restrained from dispossessing the plaintiff from the ground floor of the suit property till the disposal of the present suit. *Application stands disposed off accordingly.*

Let summons of the suit for settlement of issues be issued to the unserved defendants, on filing of PF/RC for **23.10.2024**. Process be given dasti as prayed for.

(SHIV KUMAR)  
District Judge-02, Court no.127,  
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