

9 Civ DJ 13756/16
SHASHI DUA
Vs.
PRABHA ANAND
CNR: DLWT01-00

19.05.2025

Present: Sh. Tariq Siddiqui, Counsel for plaintiff having mobile no. **9811202991**
Sh. Rachat Sang, Counsel for defendants no. 1 and 3 (through VC).
Sh. Shivam Chandana, Counsel for defendant no.9 along with defendant no.9.
Sh. M.M. Hashmi, Counsel for defendant no.10 along with defendant no.10, having mobile no. **9810655733**

Memo of appearance filed on behalf of defendant no.9.

Defendants no.6 and 8 have failed to file the written statement. The statutory period for filing the written statement has already elapsed. In view of this, the right of defendants no. 6 and 8 to file the written statement stands closed.

Proposed issued filed on behalf of plaintiff.

Opportunity given to the parties for admission/denial of documents. Same has not been availed. Pleadings are complete. On the basis of pleadings, the following issues are framed;

ISSUES

- 1. Whether the plaintiff is entitled to decree of declaration declaring the plaintiff as the owner of half portion of the suit property bearing no. ED-61, Tagore Garden, New Delhi, built upto third floor, on a plot admeasuring 150 square yards? OPP***

2. *Whether the plaintiff is entitled to a decree of declaration declaring mutation of the suit property vide letter dated 17.10.1997 issued by DDA in favour of defendant no.1; subsequent Conveyance Deed dated 18.02.2010 in favour of defendant no.1 and Sale Deed dated 14.06.2010 in favour of defendant no.6 and subsequent Sale Deed dated 31.01.2015, 11.12.2018 and 18.11.2021 in favour of defendants no. 7, 8 and 9, be declared as null and void? OPP*
3. *Whether plaintiff is entitled to a decree of specific performance directing defendants no. 1, 2 and 3 to execute Sale Deed in terms of Agreement dated 31.01.1967? OPP*
4. *Whether the plaintiff is entitled for a decree of permanent injunction, as prayed for? OPP*
5. *Whether the plaintiff is entitled for a decree of mesne profits @ Rs. 25,000/- per month from the date of filing of the present suit till its realization? OPP*
6. *Whether the plaintiff has no locus standi to file the present suit? OPD*
7. *Whether the suit filed by plaintiff is barred by limitation? OPDs*
8. *Whether the present suit is not maintainable in its present form? OPDs*
9. *Relief.*

No other issue arises or has been pressed.

Both the parties are directed to file the list of witnesses within 15 days. Plaintiff is directed to supply the advance copy of the evidence by

way of affidavit to the opposite party at least 15 days prior to the next date of hearing. Parties are also directed to appear in person on the next date of hearing.

At this stage, counsel for defendant no.10 has pressed his application under Order XXXIX Rule 1 and 2 of CPC wherein he has prayed for permission for repair of plumbing system, electricity fittings, water closet and white wash to make the property habitable.

Before deciding the said application, it would be appropriate to appoint Local Commissioner in the present case to determine the exact structure of third floor of the suit property. Counsel for plaintiff has submitted that he has no objection for the same.

In view of the above, I am of the considered opinion that the appointment of Local Commissioner for inspection of the suit property is required before granting any relief to the defendant no.10. In view of this, **Sh Saurav Singh Yadav, having Chamber No. L-3, K L Sharma Block, Tis Hazari Courts, New Delhi, having mobile No. 8954377855**, is appointed as a Local Commissioner. The fee of the Local Commissioner is fixed as Rs.25,000/- (Rupees Twenty Five Thousand only) and the same shall be borne by **defendant no.10**. The Local Commissioner shall visit the suit property i.e third floor with roof/terrace rights built up on property bearing no. ED-61, Tagore Garden, residential scheme, Tagore Garden, New Delhi admeasuring 149.33 square yards and carry out the internal and external inspection of the same on **22.05.2025 at 03.00 p.m.** **Local Commissioner is also directed to prepare rough site plan of the suit property.**

The Local Commissioner shall also take the photographs of the 3rd floor of the property in question. The fee of the Local Commissioner is including the amount of expenditure incurred on the photographs and also the amount of expenditure incurred for preparing the rough site plan. The Local Commissioner shall carry out the inspection after intimating both the parties telephonically. Plaintiff as well as defendant no.10 shall fully cooperate with the Local Commissioner during this inspection. If required, the Local Commissioner may seek police aid from the concerned police station and it is hoped that the concerned SHO shall fully cooperate. Intimation be forwarded to the Local Commissioner. The Local Commissioner shall furnish report along with two copies for the parties on or before the next date of hearing.

Copy of this order be given dasti to the Local Commissioner as well as to the parties.

To come up for report of Local Commissioner and for disposal of the application under Order XXXIX Rule 1 and 2 of CPC of defendant no.10 on **29.05.2025**.

To come up for PE on **21.08.2025**.

(Goma Dabas Gupta)
District Judge-06
West District, Tis Hazari Courts
Delhi/19.05.2025