

Kiran Walia Vs. Akash Fotra & Ors.

CS No. 607865/19

25.07.2019

Present: Plaintiff alongwith Ld. LAC Ms. Meena Jha.
Defendant no. 2 alongwith Sh. R. K. Alag, counsel for
defendants no. 1 & 2.
None for defendants no. 3 to 6. **(Already ex-parte vide
order dated 03.04.2018).**

Matter is fixed for framing of issues. In para no. 2 of the written statement, the defendants no. 1 & 2 have taken the objection of deficit court fees and jurisdiction of this court, however, counsel for these defendants submits that now he is not pressing this issue since earlier the plaintiff filed the civil suit on the same cause of action before the Ld. Civil Judge and on the objection of these defendants regarding jurisdiction and court fees, in the said suit, the plaint of the suit was returned to the plaintiff and in pursuance of said return of plaint, the plaintiff has filed this suit, therefore, counsel submits that now in this suit, he is not pressing the said issue.

Pleadings are complete.

From the pleadings of the parties, the following issues arises and are framed accordingly:-

- (i) *Whether the suit of the plaintiff is barred by law of limitation? OPD No. 1 & 2.*

- (ii) *Whether the present suit is not maintainable in its present form without claiming the relief of possession?OPD No. 1 & 2.*
- (iii) *Whether the plaintiff has already received her share in the suit property as alleged in para no. 4 (Preliminary objection), of the written statement?OPD No. 1 & 2.*
- (iv) *Whether the plaintiff is entitled for the decree of partition, as prayed for?OPP.*
- (v) *Whether the plaintiff is entitled for the decree of permanent injunction, as prayed for?OPP.*
- (vi) *Relief.*

No other issues either pressed or arises. Both the parties are directed to file list of their witnesses within 15 days from today.

The burden to prove the main issues is upon the defendants no. 1 & 2, therefore, they will first lead their evidence.

Put up for DE on 12.09.2019. Advance copy of affidavit in evidence be supplied by hand to the opposite party at least one week prior to next date of hearing.

(Charu Aggarwal)
ADJ-03/West District/THC
Delhi-25.07.2019