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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 67/2025**

JITENDER RAJPAL

.....Plaintiff

Through: Mr. Dhruv Chawla and Mr. Akshit
Mago, Advocates.

versus

MEENAKSHI MANGHANI & ORS.

.....Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **28.01.2025**

I.A. 2078/2025 (Exemption)

Allowed, subject to all just exceptions.

CS(COMM) 67/2025 & I.A. 2077/2025

1. The present suit has been filed by the Plaintiff for specific performance of an Agreement to Sell dated 26.12.2022 for the subject property described as 50% share (back side) of *phar/ground* floor and entire basement of shop bearing no. C-36, situated at New Subzi Mandi, Azadpur, Delhi-110033, admeasuring 636 sq. feet.
2. It is the case of the Plaintiff that an agreement to sell was entered into between the Plaintiff and Defendants. The suit property which is described in the agreement to sell which the Defendants claims to be the owner thereof is described in the recital which reads as under:-

*“WHEREAS the first party is the owner of 50%
SHARE (BACK SIDE) OF PHAR/GROUND FLOOR*



AND ENTIRE BASEMENT, OF SHOP BEARING NO.C-36, HAVING ITS TOTAL AREA MEASURING 636 SQ. FEET, SITUATED AT NEW SUBZIMANDI, AZADPUR, DELHI-110033, with the proportionate rights of the land under the said property, hereinafter called the PROPERTY.”

3. Material on record indicates that this property belongs to a partnership firm consisting of 3 partners namely Shri Kanhayee Lal, Shri Nand Lal and Shri Kishan Chand. Shri Kishan Chand is the husband of Defendant No.1 and the father of the Defendant Nos.2 to 4.

4. The partnership deed was dissolved by dissolution deed dated 30.06.1981. Thereafter, the property bearing Shop no. C-36 situated at New Subzi Mandi, Azadpur, Delhi-110033 was divided in the following manner:-

“9. That the fixed assets of the erstwhile partnership have been divided and taken over by the parties as under:-

Party No.1. a) Telephone connection No: 741431 along with tele-address.

b) right hand portion of the office premises at first floor (after the stairs' landing) of premises No: C-36, New Sabzi Mandi, Delhi along with the furniture and fixtures installed therein.

c) ¼ share of the platform over the basement in the front side.

Party No.2. a) Left hand portion of the office premises at the first floor (after the stairs' landing) of premises No. C-36, New Sabzi Mandi, Delhi along with the furniture and fixtures installed therein.

b) ¼ shares of the Platform over the basement in the



front side along with end of adjoining the platform of the party No.1.

Party No.3. a) Basement of premises No: C-36, New Sabzi Mandi, Delhi along with the furniture and fixtures installed therein.

b) ½ portion of the entire platform over the basement in the rear of the portions allotted and taken over by the parties No.1 and 2.”

5. It is stated that out of a total sale consideration of Rs.2,80,00,000/- the Plaintiff has already paid an amount of Rs.60,00,000/- and 2,20,00,000/- is due and payable which the Plaintiff is willing and ready to pay at the time of the sale deed as agreed upon in the agreement to sell.

6. It is stated that the Defendants are not proceeding ahead with the Agreement to Sell claiming that there is an injunction which has been granted by the Court of the Ld. District Judge, North District, Rohini in CS No.448 of 2023.

7. The learned counsel for the Plaintiff has drawn the attention of this Court to the Plaint in the said Suit. The Plaint in the said suit covers the entire property bearing no.C-36, situated at New Subzi Mandi, Azadpur, Delhi-110033, admeasuring 636 sq. feet. In that plaint it is specifically mentioned that the Defendants therein are trying to sell the property.

8. In response thereto, the Defendants therein have filed written statement denying that they have entered into any transaction to sell the said property. The Plaintiff therefore states that the actions of the Defendants might defeat the rights of the Plaintiff herein under the agreement to sell by selling the suit property to a third party.



9. The learned counsel for the Plaintiff clearly states that the property which the Plaintiff has purchased under the agreement to sell is the property which had been exclusively allotted to the predecessor-in-interest of the Defendants and therefore the Defendants are clearly entitled to enter into an agreement to sell with the Plaintiff without their being any incumbrance on the property that the Plaint is registered as a suit.

10. On taking steps, let summons be issued to Defendants through all permissible modes.

11. List before the Joint Registrar on 24.03.2025 and list before the Court on 10.03.2025.

I.A. 2076/2025

12. This Court is inclined to restrict the Defendants from alienating, encumbering or creating any third party rights over the property described as 50% share (back side) of phar/ground floor and entire basement of shop bearing no. C-36, situated at New Subzi Mandi, Azadpur, Delhi-110033, admeasuring 636 sq. feet till the next date of hearing.

SUBRAMONIUM PRASAD, J

JANUARY 28, 2025

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