



\$~44

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

+ **CS(OS) 79/2025 I.A. 3348/2025 I.A. 3349/2025**

SH RAJEEV SETHI & ANR.Plaintiff

Through: Mr. Jaspreet Singh Rai, Adv, Ms. Jia
Kapur, Adv., Ms. Bhawana Pandey,
and Ms. Mahima Sadawat, Advs.

versus

SH HARISH SETHI AND OTHERSDefendant

Through:

**CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER
10.02.2025**

%

I.A. 3349 /2025 (For exemption)

1. Exemption granted, subject to all just exceptions.
2. Applicant shall file legible, clear, dim copies of the documents on which the applicant may seek to place reliance before the next date of hearing.
3. Accordingly, the present application is disposed of.

CS(OS) 79/2025

1. The plaint be registered as a suit. Summons be issued to the defendants by all permissible modes on filing of process fee. Affidavit of service be filed within two weeks.
2. The summons shall indicate that the written statements must be filed



within thirty days from the date of receipt of the summons. The defendants shall also file affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.

3. The plaintiff is at liberty to file replications thereto within thirty days after filing of the written statements. The replications shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendants, failing which the replications shall not be taken on record.

4. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

5. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

6. List before the learned Joint Registrar for marking of exhibits on 20th March 2025.

7. List before the Court on 07th July 2025.

I.A. 3348/2025 (Application under Order XXXIX Rule 1 & 2 of CPC)

1. This present application has been filed under Order XXXIX Rule(s) 1 and 2 read with Section 151 of CPC seeking declaration, partition and permanent injunction in respect of property bearing Nos. '4358 and 4359, Main Bazar, Paharganj, New Delhi-110055, comprising of shops on the ground floor and residential accommodation on upper floor (tin shed) super structures situated thereat' ('**suit property**')

2. In 1972, grandfather of the plaintiffs and the defendants *late Sh. Devi Ditta Mal Sethi* along with the father of the plaintiffs *late Sh. Subhash Chander Sethi* purchased the suit property *vide* registered sale deed dated 8th June 1972.

3. As per the proportionate contributions made by the parties, the father



of the plaintiffs was entitled to 1/4th share of the suit property whereas the grandfather was entitled to 3/4th share of the property.

4. The grandfather then passed away on 19th October 1984 (*intestate*) leaving his legal heirs. The legal heirs of their deceased grandfather have been recorded by the plaintiffs as under:

- i. Smt. Veeran Wali/Devi---**WIFE**
- ii. Shri Desh Raj Sethi---**SON**
- iii. Shri Mulkh Raj Sethi ---**SON**
- iv. Shri Subhash Chander Sethi---**SON**
- v. Smt. Kaushalya Wanti---**DAUGHTER**
- vi. Ram Piyari Sabharwal---**DAUGHTER**
- vii. Smt. Sumitra Devi---**DAUGHTER**
- viii. Smt. Sheela Rani---**DAUGHTER**
- ix. Smt. Raj Rani---**DAUGHTER**
- x. Smt. Usha Rani---**DAUGHTER**

5. Accordingly, all the legal heirs acquired 1/10th undivided share in 75% of the said property.

6. On 17th May 1992, the grandmother of the plaintiffs, *late Smt. Veeran Wali* passed away (*intestate*), leaving her 1/10th undivided share in the favour of all the remaining 9 legal heirs, accordingly, the plaintiffs acquired 33.33% of the suit property.

7. In 2008-2009, five daughters of *late Shri Devi Ditta Mittal* except *Smt. Sheela Rani*, relinquished their undivided shares in favour of the father of defendant No.1 *late Sh. Desh Raj Sethi*. Making *late Sh. Desh Raj Sethi*, the co-owner to the extent of 49.99%.



8. *Late Sh. Desh Raj Sethi*, then, propounded a Will dated 24th September 2014, bequeathing his half share of the above 49.99% in favour of defendant No.1 and the remaining share in favour of his two grandsons, defendant Nos. 2-3.

9. *Late Sh. Desh Raj Sethi* passed away on 6th August 2021.

10. A relinquishment deed was executed on 17th July 2023, by *Sh. Ravi Bhasin* (grandson of *late Sh. Desh Raj Sethi*) in favour of defendant No.2 (grandson of *Sh. Desh Raj Sethi*).

11. Another relinquishment deed on 18th March 2024, was executed by the wife of *Sh. Subhash Chander Sethi*, with respect to her estate, in favour of the plaintiffs.

12. Accordingly, they have they entered a family settlement dated 13th December 2023, which according to the plaintiffs, has not been honoured by the defendants.

13. Due to the recent discord relating to the property, the suit has been filed and this application has been moved.

14. Plaintiffs state that both the plaintiffs and the defendants are in possession of the various parts of the suit property.

15. In these facts and circumstances, till the next date of hearing, there will be a *status quo* on the title and possession of the suit property.

16. Compliance of Order XXXIX Rule 3, CPC be made within one week from today.

17. List on 14th May 2025.

18. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 10, 2025/RK/kp