



\$~39

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

+ **CS(OS) 140/2023**

SMT.TAPATI MAZUMDAR & ANR.

..... Plaintiffs

Through: Ms. Jaya Goyal and Ms. Manpreet
Kaur, Advs.

versus

MS. KAVERI KAPOOR & ORS.

..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

%

01.03.2023

IA No.4042/2023 (Exemption)

Allowed, subject to all just exceptions.

Applications stands disposed of.

CS(OS) 140/2023

1. Let the plaint be registered as a suit.
2. Issue summons in the suit.
3. Upon the plaintiffs taking steps within 10 days, let summons be sent to the defendants by all permissible modes. Let the summons indicate that the defendants are required to file a written statement to the plaint within 30 days from the date of receipt of summons, alongwith affidavit of admission/denial of the documents filed by the plaintiffs. The plaintiffs may file a replication to the written statement within 30 days thereafter, alongwith affidavit of admission/denial of the documents filed by the defendants.



4. List before the Joint Registrar for completion of pleadings, for admission/denial of documents and marking of exhibits on 10.04.2023.

5. List before court on 20.07.2023.

IA No.4041/2023 (Stay)

6. Issue notice to the defendants, on necessary steps being taken by the plaintiffs, through all permissible modes, including electronically. *Dasti* in addition.

7. Let a reply be filed within four weeks; rejoinder thereto, if any, be filed within two weeks thereafter, with copies to the opposing counsel.

8. The present suit for partition, possession and permanent injunction has been filed by the plaintiffs against the defendants on the assertion that the parties to the present suit are the legal heirs of late Sh. Arun Chandra Mazumdar and late Smt. Ila Mazumdar.

9. The plaintiff no.1 is the wife of the deceased son of late Sh. Arun Chandra Mazumdar and Smt. Ila Mazumdar, whereas plaintiff no.2 is the son of the plaintiff no.1. The defendants are stated to be the other legal heirs of late Sh. Arun Chandra Mazumdar and late Smt. Ila Mazumdar.

10. According to the plaintiffs, since Sh. Arun Chandra Mazumdar and Smt. Ila Mazumdar died *inte state*, the plaintiffs are entitled to one-sixth share in the suit property bearing No.D-766, Chittranjan Park, New Delhi-110019, admeasuring 158 sq. yards, consisting of ground floor and barsati floor.

11. It is submitted that after the death of Sh. Arun Chandra Mazumdar and Smt. Ila Mazumdar, the plaintiffs have made various requests to the defendants to apply for mutation of the property in records of L&DO/MCD and also to get the property converted from leasehold to freehold. However,



the defendants have not acceded to the request of the plaintiffs.

12. It is further stated that although it had been agreed between the parties that the property would be partitioned as soon as possible and the share of the plaintiffs would be given to them, the defendant nos.3 and 4, who are in possession of the suit property, have been evading the various requests of the plaintiffs in this regard. The plaintiffs have a serious apprehension that the defendants are in process of creating third party rights in respect of the suit property.

13. Accordingly, it is directed that till the next date of hearing, *status quo* as regards title and possession shall be maintained in respect of the suit property.

14. Let compliance with Order 39 Rules 3 be done within a period of seven days from today.

15. List before court on 20.07.2023.

SACHIN DATTA, J

MARCH 1, 2023/cl