



\$~19

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 175/2023 & I.A. 4905/2023 I.A. 8330/2023 I.A. 47918/2024**
RITUMALAPlaintiff

Through: Mr. Deepak Bidhuri, Adv.

versus

RISHI SHARMA & ANR.Defendants
Through: Mr. Jeetin Jhala, Adv. (Through VC)
for D-1
Ms. Neha Kapoor, Adv. (Through VC)
for D-2

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER
23.07.2025

%

I.A. 47918/2024

1. This application has been filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 ['CPC'], by the plaintiff for amending the plaint in view of the objections raised by defendant no. 2 in his application filed under Order VII Rule 11 CPC.
2. Learned counsel for the plaintiff states that in addition to amending paragraph 16 of the plaint, the plaintiff is seeking to incorporate a relief of declaration qua Will propounded by the defendant no. 2 and the plaintiff also seeks to implead two more parties [Sh. Anish Sharma¹ and Sh. Niteesh

¹ Proposed Defendant No. 3



Sharma²] as defendant nos. 3 and 4, who are the legatees under the alleged Will dated 18.01.2021.

3. Learned counsels for defendant no. 1 and defendant no. 2 states that they have no objection to this application being allowed.

4. Learned counsel for defendant no. 2 states that she will also be representing the proposed defendant nos. 3 and 4. She states that defendant nos. 2, 3 and 4 do not however admit to the merits of the amendments proposed.

5. In view of the aforesaid submissions of the parties, the application is allowed. The rights and pleas of the contesting defendants on merits are kept reserved.

6. The amended plaint along with amended memo of parties is taken on record.

7. Defendant nos. 1 and 2 are granted leave to file additional written statement limited to responding to the amended paragraph and relief incorporated in the plaint.

8. The additional written statements, if any be filed within four (4) weeks and the plaintiff may file replications, if any, to the additional written statements within four (4) weeks thereafter.

9. With the aforesaid directions, the captioned application stands disposed of.

I.A. 8330/2023

10. This application under Order VII Rule 11(b) and (d) CPC, has been filed by defendant no. 2 seeking rejection of the plaint.

² Proposed Defendant No. 4



11. Learned counsel for the applicant/defendant no. 2 states that in view of the amendments allowed today, she is not pressing this application and will raise her pleas in the additional written statement.

12. The application is disposed of with liberty reserved to defendant no. 2 to raise the surviving grounds by way of its additional written statement.

CS(OS) 175/2023

13. Issue summons to defendant nos. 3 and 4.

14. Ms. Neha Kapoor, Advocate accept summons on behalf of newly impleaded defendant nos. 3 and 4. She waives off formal service of summons. She states she will file her vakalatnama within one (1) week.

15. The defendant nos. 3 and 4 shall file their written statement to the amended plaint within thirty (30) days. The defendant nos. 3 and 4 shall also file affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statement(s) shall not be taken on record.

16. The plaintiff is at liberty to file replication(s) thereto within thirty (30) days after filing of the written statement(s). The replication(s) shall be accompanied by affidavit of admission/denial in respect of the documents filed by the said defendants, failing which the replication(s) shall not be taken on record.

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

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

19. List before the learned Joint Registrar (J) on 02.09.2025.

20. List before the Court on 16.12.2025.



I.A. 4905/2023(Under order 39 Rule 1 & 2 R/W Section 151 CPC)

21. This is an application filed by the plaintiff under Order XXXIX Rule 1 and 2 CPC seeking a restraint against the defendants from creating third-party interest in the suit properties. The details of the suit properties are set out in the plaint at paragraph 4, which reads as under: -

- i) Property No. E-43, Sector 6, Noida, U.P. ['Noida Property']
- ii) Property No. 10/33, Jogmaya Mandir, Mehrauli, New Delhi. ['Mehrauli property'].

22. Learned counsel for the defendant nos. 2 to 4 states that while there is no dispute that both the suit properties belonged to late Sh. Jatinder Singh Sharma, the father/grandfather of the parties, however, he has left behind an unregistered Will dated 18.01.2021. She submits that the said Will shall be proved during the course of the trial in this suit.

22.1. She also submits that the plaintiff herein has previously filed a separate suit in 2023, claiming her share in the suit property; however, the same was subsequently withdrawn.

22.2. She states that the Noida property has been currently let out to a tenant and the rent is collected by defendant nos. 1 and 2.

23. Learned counsels for defendant nos. 1 and 2 states that they are readily not aware with respect to the current use and occupation of the Mehrauli property.

24. In the facts of this case, there is no dispute that late Sh. Jatinder Singh Sharma was the recorded owner of Noida property. It is also not in dispute that late Sh. Jatinder Singh Sharma's name is entered in the revenue records with respect to Mehrauli property. It is also not in dispute that by way of the Rules of intestate succession, the plaintiff would be entitled to undivided 1/3rd



share in these properties. Defendant No. 1 does not dispute the right of the plaintiff to inherit the suit properties. However, defendant nos. 2, 3 and 4 are relying upon the unregistered Will dated 18.01.2021, which is disputed by the plaintiff yet to be proved.

In these facts, this Court is of the considered opinion that the plaintiff has made out a prima facie case in her favour and the defendants are hereby directed to maintain *status quo* qua title and possession of the suit properties, until further orders.

25. This injunction shall however not restrain defendant nos. 1 and 2 from renewing the present tenancy or letting out the Noida property on rent again, in case the present lease lapses. In the meantime, defendant nos. 1 and 2 are directed to file an affidavit detailing the rental amount collected after 23.04.2021 (date of demise of the father) from the suit properties and the current lease agreement. Directions for deposit of rental equal to the share of the plaintiff shall be considered on the next date of hearing.

26. List before the learned Joint Registrar (J) on **02.09.2025**.

27. List before the Court on **16.12.2025**.

MANMEET PRITAM SINGH ARORA, J

JULY 23, 2025/hp/MG