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

+ **CS(OS) 112/2025 & I.A. 4667/2025**

GAURAV SHARMA & ANR.

.....Plaintiffs

Through: Mr. Arvind Nayar, Sr. Advocate with
Mr. Amit Mahaliyan, Advocate
(Through VC)

versus

PRADEEP KUMAR SHARMA & ANR.

.....Defendants

Through: Ms. Upasana Pahuja, Advocate for
D-1

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **04.07.2025**

CS(OS) 112/2025

1. The present suit has been filed seeking partition of the estate of late Mr. Hoti Lal Sharma on the basis of his registered Will dated 26.03.2003.
2. Let the plaint be registered as a suit.
3. Issue summons.
4. Ms. Upasana Pahuja, Advocate enters appearance on behalf of the defendant no. 1 on advance service. She confirms the receipt of the entire paper-book and waives the right of formal service of summons.
 - 4.1 She states that she will file her Vakalatnama within a period of one (1) week.
 - 4.2 She states that she will file her written statement along with affidavit of admission/denial of documents within four (4) weeks.



5. Upon steps being taken by the plaintiff, issue summons to the remaining defendant no. 2 by all permissible modes on filing of process fee. Affidavit of service be filed within two (2) weeks.
 6. The summons shall indicate that the written statement must be filed within thirty days (30) from the date of receipt of the summons. The defendant shall also file affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.
 7. The plaintiff is at liberty to file replications within thirty (30) days from receipt of the respective 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.
 8. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.
 9. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.
 10. List before the learned Joint Registrar for completion of service and pleadings, marking of exhibits and admission/denial of documents on **27.08.2025**.
 11. List before the Court on **19.11.2025**.
- I.A. 4667/2025 (Under Order XXXIX Rule 1 and 2 CPC)**
12. This is an application filed by the plaintiff seeking restraint on the defendant from alienating the Property No. C-586, measuring 255.64 square yards, located in Saraswati Vihar, PitamPura, Delhi ('suit property').
 13. Learned senior counsel for the plaintiff states that plaintiff has learnt



that late Smt. Premwati Sharma, widow of late Shri Hoti Lal Sharma has executed a Gift Deed dated 21.07.2016 in favour of defendant no. 1, Mr. Pradeep Kumar Sharma for the suit property.

13.1 He states that it is the stand of the plaintiff that in view of the registered Will dated 26.03.2003, the suit property was bequeathed to Smt. Premwati Sharma for her lifetime (without any right to transfer the same). He states that after her death, the suit property has to devolve upon plaintiffs and defendant no. 1 in equal shares. He states therefore the Gift Deed is illegal and invalid.

14. Issue notice.

15. Ms. Upasana Pahuja, learned counsel for defendant no. 1 accepts notice.

15.1 She states that the submissions of the plaintiffs are flawed and contrary to law.

15.2 She states that a bare perusal of the bequest in the Will would show that the bequest in favour of Smt. Premwati Sharma was absolute and Smt. Premwati Sharma became the exclusive owner of the suit property.

15.3 She states that in similar facts, Supreme Court in **Madhuri Ghosh and Another Vs. Debobroto Dutta and Another**¹ and a Coordinate Bench of this Court in **Jasbir Kumar Vs. Kanchan Kaur & Ors.**² has held that the bequest in favour of the widow therein was absolute.

15.4 She states that the Gift Deed in favour of defendant no. 1 is of the year 2016 and there is no urgency to grant ad-interim reliefs today.

15.5 She states that she will file her reply within four (4) weeks and the

¹ (2016) 10 SCC 805

² 2017:DHC:715



matter be heard thereafter.

16. In the facts noted above, having perused the Will and the cited judgments, this Court at this prima facie stage is not inclined to grant any ad-interim injunction.

17. The application shall be taken up for consideration after pleadings are complete.

18. Upon steps being taken by the plaintiff, issue notice to defendant no. 2 through all modes. Reply be filed by the defendant no. 2 within four (4) weeks from receipt of notice.

19. Rejoinder to respective replies be filed within four (4) weeks thereafter.

20. List before the learned Joint Registrar for completion of service and pleadings in this application on **27.08.2025**.

21. List before the Court on **19.11.2025**.

22. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

JULY 4, 2025/rhc/AM

Click here to check corrigendum, if any