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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS (OS) 101/2019**

SHRI MAHENDER SINGH Plaintiff
Through: Mr. Amit Sherawat, Advocate with
Plaintiff in person (M: 9810147210).
versus

SMT. MAYA DEVI & ORS. Defendants
Through: Mr. Ashok Chhabra and Mr.
B. Shekhar, Advs. (M: 9871424063).

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER
% **15.02.2019**

I.A. 2396/2019 (Exemption)

1. This is an application seeking exemption from filing certified copies of the documents. Recording the Plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed. I.A. is disposed of.

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2. Let the plaint be registered as a suit.
3. Issue summons to the Defendants through all modes upon filing of Process Fee.
4. The summons to the Defendants shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiff, without which the written statement shall not be taken on record.

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5. Liberty is given to the Plaintiff to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiff, an affidavit of admission/denial of documents of the Defendant, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines prescribed under the Delhi High Court (Original Side) Rules, 2018.

6. List before the Joint Registrar for marking of exhibits on 16th April, 2019. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

7. A copy of this order along with the complete paper book be attached with the summons. List before Court on 3rd May, 2019.

I.A. 2395/2019 (u/Order XXXIX Rules 1 and 2)

8. The Plaintiff, Shri Mahender Singh is one of the sons of late Shri Yadram Singh and Smt. Maya Devi. Defendants 2 to 5 are the Plaintiff's brothers. Defendant No. 1 is the mother. In the present suit, the Plaintiff seeks partition, rendition of accounts and permanent injunction in respect of the following properties:

- Built-up House no. 606, situated at old abadi Area, near Shiv Mandir, Chauhan Mohalla, Madanpur Khadar, New Delhi, admeasuring 268 sq. yards
- Built-up House no. 606 (Gher), Vasudev Bhawan, Chauhan Mohalla, Madanpur Khadar, New Delhi, measuring 197 sq. yds.
- Two built-up houses situated at old abadi Area, near Anglo Indian School, Chauhan Mohalla, Madanpur Khadar, New Delhi measuring 131 sq. yds and 163 sq. yds., respectively.



- Agricultural land measuring 1 Bigha, falling in khasra no.920 in the revenue estate of village Madanpur, Khadar, New Delhi.

9. The case of the Plaintiff is that he had earlier filed a suit for declaration/ injunction which was decided by the Ld. ADJ, vide judgement dated 13th November, 2018. In the said suit, the Plaintiff had pleaded an oral partition of June 2008. However, the case of the Plaintiff was not accepted by the Court and the findings of the Court is as under:-

“Therefore, in view of the discussion made above, it is observed that no oral partition as alleged by the plaintiff had even taken place between the parties to the suit in the month of June, 2008. This issue is decided against the plaintiff and in favour of defendants.”

10. Ld. counsel for the Plaintiff submits that the Defendants, having taken the stand that no oral partition had taken place between the parties, and the same having been accepted by the Court, he, now seeks equal share in the joint family assets. The share claimed by the Plaintiff is one-sixth. It is further submitted that three properties are rented out to various tenants and the Ld. counsel taken to the Court the three site plans.

11. Till the next date, all the parties shall maintain *status quo* as to the title in the suit properties. This would, however, not prevent collection/renewal of rent agreement with the tenants already in occupation of the property.

12. Compliance under Order XXXIX Rule 3 be done within 5 working days. Reply to the application be filed within 4 weeks. Rejoinder, if any, be filed within 2 weeks thereafter.

13. List on 3rd May, 2019, along with the suit.



IA 2394/2019 (u/Order XXXIX Rule 10)

14. The Defendants are directed to file a complete statement of accounts of all the rent received from the various tenants in occupation in the above three properties by way of a separate affidavit.
15. Reply to the application be filed within 4 weeks. Rejoinder, if any, be filed within 2 weeks thereafter.
16. List on 3rd May, 2019.

PRATHIBA M. SINGH, J.

**FEBRUARY 15, 2019
MR**