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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 25th March, 2026*

Pronounced on: 1st July, 2026

+ **RFA 279/2026, CM APPL. 18946/2026, CM APPL. 18947/2026, CMAPPL. 18948/2026, CM APPL. 18949/2026, CM APPL. 18950/202**

S. SUKHWINDER SINGH (Deceased)

Thr. LRs Smt. Parminder Kaur Babra

W/o Sh. Sukhwinder Singh

R/o 96-A Manekshaw Road

Anupam Garder, Sainik Farm,

Near Country Club, Neb Sarai

New Delhi-110068

.....Appellant/ Plaintiff No. 2

Through: Mr. Surender Gupta and Mr. Deepak
Rana, Advocates

Versus

SMT. JAGDEEP KAUR MEHR

W/o S. Karamvir Singh Mehr

R/o 5173 Baron Enclave, Mississauga,

L5M6V6, Ontario,

Canada.

.....Respondent No. 1 (Ex Parte)/ Defendant No.1

SMT. OMWATI

W/o Sh. Om Prakash

R/o L-51, Tagore Gali No. 13,

Brahampuri, Delhi – 110033.

.....Respondent No. 2/ Defendant No. 2

S. RUPINDER PAL SINGH

S/o Late S. Charanjeet Singh

R/o D-401, Ashiana Apartments,



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Mayur Vihar Phase-I,
Delhi – 110091.

.....Respondent No. 3/ Defendant No. 3

S. SWARANJEET SINGH
S/o Late S. Charanjeet Singh
A-143 (New 96-A),
Manek Shaw Road,
Anupam Garden, Sainik Farm,
Near Country Club, Neb Sarai,
New Delhi – 110068.

.....Respondent No. 4/ Defendant No. 4

S. SATVEER SINGH
S/o Late S. Charanjeet Singh
R/o 197, Vishnu Garden,
Delhi – 110018.

.....Respondent No. 5 (Proforma Respondent)/Plaintiff No. 1

Through:

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal under Section 96 of Code of Civil Procedure 1908 (CPC) has been filed on behalf of Plaintiff No. 2/ Appellant Sukhwinder Singh (Deceased) through LRs Smt. Parminder Kaur Babra against Judgement and Order dated 18.10.2025, whereby *Suit of the Plaintiff No. 2/ Appellant for Partition, was dismissed by the learned District Judge.*
2. The Plaintiff No. 2/ Appellant Sukhwinder Singh had filed **Civil Suit CS DJ No. 610054/2016** seeking **Partition** in respect of the suit property, **Declaration** that the sale/transfer documents dated 03.04.2002 executed by



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*their mother in favour of Defendant No. 1 and sale deed dated 27.01.2006 executed by Defendant No. 1 in favour of Defendant No. 2 as null and void, **possession** of the suit property against Defendant No. 2 and **recovery of damages/mesne profits with interest.***

3. The ***facts in brief as narrated in the plaint***, are that Gian Singh, grandfather of the Plaintiffs and Defendant Nos. 1,3 and 4 was the absolute and exclusive owner of property bearing no. IX/439, Bagichi Harphool Singh, Gandhi Nagar, Shahdara, Delhi, measuring 216 sq. yards (*hereinafter referred to as suit property*). He expired in the year 1962, leaving behind his wife Smt. Taljit Kaur, two sons and four daughters. He left behind a Will, thereby bequeathing the suit property in favour of his wife, Smt. Taljit Kaur.

4. Accordingly, after the death of Gian Singh, his wife became the absolute and exclusive owner of the said property. Smt. Taljit Kaur expired on 07.02.1979, leaving behind a Will dated 24.01.1979, thereby bequeathing and devising the said property to and in favour of her sons, *namely Charanjeet Singh and Baljeet Singh*, to the extent of half undivided share each.

5. Thereafter, Charanjeet Singh also expired intestate on 06.06.1983, leaving behind his wife namely Smt. Satvinder Kaur, and four sons namely Rupinder Pal Singh/ Defendant No. 3, Satveer Singh/Plaintiff No. 1, Swaranjeet Singh/Defendant No. 4 and Sukhvinder Singh/Plaintiff No. 2 and one daughter Jagdeep Kaur Mehr/Defendant no. 1, who succeeded to the aforesaid half undivided share of S. Charanjeet Singh, in the said property. Thereafter, the said property was partitioned between Baljeet Singh and Legal heirs of Charanjeet Singh.



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6. The Plaintiffs, Defendant No. 1, 3, and 4 and their mother became joint owners of half undivided share of the said property, measuring 108 sq. yards. Accordingly, the plaintiffs inherited 1/6th undivided share each i.e. 2/6th share in total, in the half undivided portion of the said property, while 4/6th undivided share was inherited by Defendant No. 1, 3, and 4 and their Mother.

7. The said portion of 108 sq. yards consisted of two shops situated at the ground floor in the front portion and built-up area in the rear part of the said portion. However, later on, the Plaintiffs, Defendant No. 1, 3, and 4 and their mother, sold built up area of the aforesaid portion and all of them equally shared the sale proceeds of the same. *Thus, only above said two shops situated at the ground floor, were left unpartitioned and undivided.*

8. The Plaintiffs were having a bonafide impression that their mother had let out the suit property to Defendant No. 2. However, they were shocked and surprised to know from the photocopies of the title documents handed over to them by Montu Aggarwal, that their mother, Smt. Omwati, had unauthorizedly, without having any absolute right, sold the suit property to Defendant No. 1, Sh. Jagdeep Kaur Mehr, on 03.04.2002 by virtue of void and illegal transfer documents like Agreement to Sell, general power of attorney, Will and Receipt.

9. Defendant No. 2 had purchased the said shop (*hereinafter referred as "suit property"*) from Defendant No. 1, Sh. Jagdeep Kaur Mehr, vide Sale Deed dated 27.01.2006.

10. Thereafter, the Plaintiffs approached their mother with the photocopies of the transfer documents and inquired from her about the



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execution of said documents. The Plaintiffs were shocked and surprised when their mother revealed that she had executed transfer documents of the suit property in favour of Defendant No. 1, and the registered sale deed dated 27.01.2006 was subsequently executed by Defendant No. 1 in favour of Defendant No. 2. Not only this, but she had also executed Sale Deed dated 15.02.2006 in respect of other adjoining shop, in favour of her daughter-in-law/wife of Defendant No. 3.

11. The Plaintiffs further averred that since their mother had no right to sell the suit property to anybody including Defendant No. 1, the said transfer transaction between their mother and Defendant No. 1, was void and illegal. Therefore, the registered sale deed dated 27.01.2006 subsequently executed by Defendant No. 1 in favour of Defendant No. 2 in respect of the suit property, was a sham document, which did not give clear and better title to Defendant No. 2.

12. The Plaintiffs and Defendant Nos. 1, 3 and 4 along with their mother, were the joint owners and co-sharers in two shops i.e. the suit property, possession of which had been unauthorizedly given to Defendant No. 2. Thus, the aforesaid transfer documents executed by their mother, in favour of Defendant No. 1 and the Sale Deed executed by Defendant No. 1 in favour of Defendant No. 2, were liable to be cancelled.

13. In the month of March, 2008, before death of their mother, the Plaintiffs approached her, but she flatly refused to get the aforesaid documents cancelled and refused to make partition of aforesaid two shops.

14. It was further asserted that the said shop/suit property, could have easily fetched a minimum monthly rental income of Rs. 10,000/-, had the



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plaintiffs succeeded in letting out the same from the period 03.04.2002 to 26.01.2006 and monthly income of Rs. 15,000/- from 27.01.2006 onwards. Accordingly, *Defendant No. 1 was liable to pay a sum of Rs. 1,50,000/- to the Plaintiffs towards damages/mesne profits in respect of their 2/6th undivided share in the suit property @ Rs.3333.33/- per month from 03.04.2002 to 26.01.2006.*

15. Apart from this, *Defendant No. 1 and Defendant No. 2 were jointly and severally liable to pay a sum of Rs. 1,45,000/- to the Plaintiffs towards damages/mesne profits in respect of their 2/6th undivided share @ Rs.5,000/- per month w.e.f. 27.01.2006 till 26.06.2008. They are further liable to pay interest @ 24% per annum.*

16. Accordingly, the Plaintiffs issued a Notice dated 27.09.2007 to Defendant No. 1 and Defendant No. 2 as well as to their mother, thereby calling upon them to cancel the documents of transfer dated 03.04.2002 and Sale Deed dated 27.01.2006, but no response was received.

17. Thereafter, Plaintiffs issued another Notice dated 20.02.2008, calling upon them to cancel the above documents and also to hand over peaceful and vacant possession of their 2/6th share in the suit property and to pay damages too.

18. The Plaintiffs further averred that their mother expired 17.04.2008, whereupon her 1/6th undivided share in the suit property had devolved upon her legal representatives i.e. the Plaintiffs and Defendant No. 1, Defendant No. 3 and Defendant No. 4. Accordingly, they became joint owners of the suit property to the extent of 1/5th undivided share each.



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19. Hence, *the present Suit for Declaration, possession and mesne profits was filed.*

20. **Defendant No.1, Sh. Jagdeep Kaur Mehr and Defendant No. 4 Sh. Swaranjeet Singh**, did not contest the Suit and were proceeded ex-parte on 16.08.2016 and 22.11.2016, respectively.

21. **Defendant No. 2/ Smt. Omwati in her Written Statement** stated that the suit was barred on *the principles of estoppel*. All the family members including the Plaintiffs, had executed ***the Relinquishment Deed dated 12.02.1998*** in favour of Late Smt. Satvinder Kaur, whereby she became the absolute owner. Thus, she executed the sale deed in favour of Defendant No. 2, which are legal and valid.

22. She further submitted that since the Plaintiffs and their mother Satwinder Kaur, were residing in the same premises i.e. 96-A, Manek Shaw Road, Sainik Farms, New Delhi, the entire family i.e. the Plaintiffs, Defendant Nos. 1, 3 and 4 were having due knowledge of all the transactions done by their mother. Moreover, she had executed all the documents including the Sale Deed in respect of the suit property, with due consent and knowledge of all. Therefore, the present suit is liable to be dismissed.

23. **Defendant No. 3/ Rupinder Pal Singh in his Written Statement** admitted that half undivided portion measuring 108 sq. yards of property consisted of two shops in the front portion and a built-up area in the rear. He further admitted that the Plaintiffs, Defendant Nos. 1, 3, 4 and their mother, had sold the built-up rear portion, but he denied the allegation that the sale proceeds were equally shared by all. He claimed that the entire 108 sq. yards had been sold as per a family settlement, and that the plaintiffs had already



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received their share of the sale proceeds, at the time of execution of the relevant sale deeds.

24. He also admitted that their mother had sold the property on the basis of the *Relinquishment Deed dated 12.02.1998* executed in her favour by all the legal heirs, including the plaintiffs, and that the plaintiffs were fully aware of the transactions carried out by their mother. *Defendant No. 3 therefore, alleged that the suit had been filed only to harass the defendants and prayed that it be dismissed.*

25. **On merits**, the averments made in the Plaint were denied and it was asserted that the Suit is liable to be dismissed.

26. The **Plaintiffs in the Replication, reaffirmed the assertions made in the Plaint.**

27. In *Replication to the Written Statement of Defendant No. 2*, the Plaintiffs denied every material assertion made by her. It was claimed that the alleged Relinquishment Deed dated 12.02.1998 was only notarized and not registered, and therefore was inadmissible in law and could not confer any right, title or interest on Defendant No. 2. They denied having ever consented to the transactions made by their mother or by Defendant No. 1, and also denied that Defendant No. 1 had been residing at the address of Plaintiff No. 2. The Plaintiffs clarified that even if Smt. Satvinder Kaur was residing at the same address as Plaintiff No. 2, that by itself did not mean that the plaintiffs had consented to the sale of the suit property.

28. In *Replication to the Written Statement of Defendant No. 3 Rupinder Pal Singh*, the Plaintiffs stated that on one hand, Defendant No. 3 had claimed that their mother executed the Sale Deed with the knowledge of



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the plaintiffs on the basis of the relinquishment Deed dated 12.02.1998, but on the other hand, he had signed a *Memorandum of Understanding* with his brothers on 26.02.2006, about 10 to 15 days after the sale of one shop in the wife's name, under which it was agreed that the sale proceeds would be shared in a particular manner. The plaintiffs claimed that this Memorandum showed that the matter had not been settled in the manner projected by Defendant No. 3 and that the family arrangement, was being misrepresented. They reiterated their stand that the Relinquishment Deed was unregistered and ineffective, and they maintained that the impugned transactions were invalid and liable to be ignored.

29. From the pleadings of the parties, **following issues were framed on 22.05.2018-**

“1. Whether the plaintiffs are estopped from filing the present suit on account of execution of Relinquishment Deed in favour of their mother, Late Smt Satvinder Kaur with respect to the suit property?

OPD

2. Whether late Smt. Satvinder Kaur was not legally entitled to sell the suit property? OPP

3. Whether the plaintiffs are entitled for decree of declaration thereby declaring sale/transfer documents executed by late Smt. Satvinder Kaur in favour of the defendant no. 1 in respect of the suit property as null and void and its cancellation, as prayed vide prayer clause (iii)? OPP

4. Whether the plaintiffs are entitled for decree of declaration thereby declaring sale deed dated 27.01.2006 executed by the Defendant no. 1 in favour of the defendant no. 2 as null and void and its cancellation, as prayed vide prayer clause (iv)? OPP



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5. Whether the plaintiffs are entitled to decree of partition of the suit property, as prayed vide prayer clause (i)? OPP
6. Whether the plaintiffs are entitled to decree of possession of suit property, as prayed vide prayer clause (ii)? OPP
7. Whether the plaintiffs are entitled to decree of mesne profits, as prayed vide prayer clause (v) and (vi)? OPP
8. Whether the Plaintiffs are entitled to pendente life and future interest, if so, at what rate? OPP
9. Relief"

30. The Plaintiffs examined four witnesses.

31. **Plaintiff No.2 Sukhwinder Singh as PW-1**, tendered his evidence affidavit as PW-1/A. He deposed on similar lines as his case in the plaint and relied upon the site plan, copies of the earlier title documents, the Legal Notices, and the Relinquishment Deed dated 12.02.1998.

32. **Plaintiff No.1 Satveer Singh examined himself as PW-2** and he tendered his evidence affidavit as PW-2/A. He also supported the averments made in the plaint and relied on the same documentary record.

33. **PW-3 Ms. Kanta**, Reader in the office of Sub Registrar-IV, Seelampur, Delhi proved the registered GPA dated 03.04.2002 Ex.PW-3/A, executed by late Smt. Satvinder Kaur, in favour of Defendant No.1, Jagdeep Kaur Mehr.

34. **PW-4 Sh. Parvesh Khatri**, Record Keeper in the office of Sub Registrar-VIII, Geeta Colony, proved the registered Sale Deed dated 27.01.2006 Ex.PW-4/A, executed by Defendant No.1 Smt. Jagdeep Kaur Mehr, in favour of Defendant No.2, Smt. Omwati.



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35. **Defendant No.2, Smt. Omwati examined herself as DW-1** vide Affidavit of evidence Ex. DW-1/A. She reiterated her claim of valid title and good faith purchase.

36. **DW-2 was Sh. Manoj Kumar Dahiya**, JJA, Record Room Sessions, Tis Hazari Courts, who produced the record of **Civil Suit No. 47/95**, titled *Sardar Baljit Singh v. Smt. Satvinder Kaur*, decided on 05.07.1996 as Ex.DW-2/A, pertaining to the earlier adjudication concerning the share of the family property and the declaration of rights in favour of the mother.

37. The **Ld. District Judge**, on appreciation of evidence observed that the *Plaintiffs had not challenged the findings of decree dated 05.07.1996 in Civil Suit No. 47/95, titled Sardar Baljit Singh v. Smt. Satvinder Kaur*, Ex.DW-2/A, wherein their mother, *Smt. Satvinder Kaur had been shown as owner of 108 sq. yards of Gandhi Nagar property*. Therefore, the Plaintiffs could not ignore the consequences of that decree and yet claim exclusive title, contrary to the earlier adjudication and the family arrangement evidenced therein.

38. *The Plaintiffs had admitted the execution of the Relinquishment Deed dated 12.02.1998, including their photographs, signatures and thumb impressions. They also admitted that the same had never been challenged by them, at any stage. The Deed clearly mentioned that the executants voluntarily relinquished all their right, title and interest in the property measuring 108 sq. yds, bearing no. IX/439, Gandhi Nagar, Shahdara, Delhi in favour of their mother, and on that basis, the mother became the sole and absolute owner thereof.*



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39. It was observed that the Plaintiffs themselves admitted that the property had been mutated in the name of their mother Smt. Satvinder Kaur. The rear portion of the property had been sold in 1998 by their mother, and that they never objected to that sale. The Plaintiffs also admitted that the suit shops had been let out by their mother and that rent was collected by her. These admissions clearly established that the mother was all along treated as the owner of the suit property with the consent of the family members and that she was managing all the affairs of the property on her own.

40. *Learned District Judge* further noted that Smt. Satvinder Kaur was a post-graduate and therefore, fully capable of understanding the implications of her actions. She would have executed the transfer documents dated 03.04.2002 in favour of Defendant No. 1, including the GPA, Will, Agreement to Sell, and Receipt in respect of the suit property. Moreover, these documents were witnessed by Defendant No. 4.

41. *The learned District Judge held* that the case fell within the protective umbrella of *Section 41 of the Transfer of Property Act, 1882*. The Plaintiffs, by their conduct, had held out their mother as the ostensible owner of the suit shop, and Defendant No.2 had purchased the property for consideration and in good faith. *Thus, the plaintiffs cannot be allowed to question the legality of sale deed dated 26.01.2006.*

42. The family arrangement/settlement, when reduced into writing for evidentiary purposes, are not necessarily required to be registered. Even if it is said that mother by virtue of Relinquishment Deed ,could not have sold the suit property to Defendant No. 1 as the deed was unregistered; she as well as Defendant No. 1 had acquired complete rights over it, in terms of



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family arrangement/settlement. Then, **Section 43 of the Transfer of Property Act, 1882** would be applicable, in support of the Defendant No. 2.

43. **The learned District Judge accordingly, dismissed the suit of the Plaintiffs.**

44. Aggrieved by the said Judgement, **present Appeal** has been preferred on behalf of the Plaintiff No. 2/ Appellant Sukhwinder Singh.

45. The **grounds of challenge** are that the learned District Judge allegedly erred in relying upon the unregistered Relinquishment Deed dated 12.02.1998 executed by the family members, including the appellant, in favour of their mother, Smt. Satvinder Kaur. It is contended that the said relinquishment deed being unregistered, could not legally transfer, extinguish, or relinquish any right, title, or interest in the suit property.

46. Reliance is placed upon *Sections 17(1)(b) and 49 of the Registration Act, 1908*, which mandate compulsory registration of documents affecting rights in immovable property and prohibit reliance upon unregistered documents for proving title. Reliance is placed upon the judgment in *Yellapu Uma Maheswari v. Buddha Jagadheeswara Rao & Ors.*, (2015) 16 SCC 787, wherein the Supreme Court held that a document creating or extinguishing rights in immovable property requires compulsory registration and an unregistered document is inadmissible for such purposes.

47. Since the Relinquishment Deed was unregistered and legally ineffective, the appellant's share in the property was never extinguished. Consequently, the appellant continued to be a co-owner and legal heir in respect of the suit property. It is further contended that the suit property was



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never partitioned amongst the legal heirs and, therefore, the rights of the appellant as a co-owner, continue to subsist.

48. It was further submitted that the learned District Judge failed to appreciate the settled legal principle that possession of one co-owner is deemed to be possession on behalf of all co-owners, unless there is clear proof of ouster. Reliance is placed upon B.R. Patil v. Tulsa Y. Salwar & Ors., 2022 SCC OnLine SC 240, Geeta Tandon v. Sunil Gomber & Ors., 2023 SCC OnLine Del 2067 and Tara Chand Gaur v. Satish Chand Sharina & Anr., 2018 SCC OnLine Del 12923 wherein it was held that mere exclusive occupation by one heir or co-owner, does not extinguish the rights of the other co-owners.

49. Moreover, the learned District Judge failed to appreciate that the appellant was not a party to the litigation titled S. Baljeet Singh v. Smt. Satvinder Kaur. Therefore, any findings or observations recorded in the said proceedings, cannot bind the appellant or adversely affect his/her independent rights in the suit property.

50. The Appellant contended that the learned District Judge erred in treating mutation entries and revenue records, as evidence of ownership. Reliance is placed upon Balwant Singh v. Daulat Singh, (1997) 7 SCC 137, wherein the Supreme Court held that mutation entries neither create nor extinguish title and are relevant only for fiscal purposes.

51. Reliance is also placed upon Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186, wherein it was held that entries in revenue records do not confer ownership and have only a fiscal significance. Further reliance is placed upon Indu Rani v. Pushpa Varat Mann (2025), wherein the Delhi



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High Court reiterated that mutation cannot be treated as conclusive proof of ownership.

52. It is therefore submitted by the Appellant that the impugned judgement be set aside.

Submissions heard and record perused

53. It is an admitted case of the parties that the Suit Property was originally owned by Sh. Gian Singh, who was survived by two sons, namely, Charanjeet Singh and Baljeet Singh, four daughters and his wife Taljit Kaur. He had executed a Will dated 24.01.1979 in favour of his wife Taljit Kaur and after demise of Gian Singh, Taljit Kaur became the exclusive owner of the entire property in question. Smt. leaving behind a Will dated 24.01.1979, thereby bequeathing and devising the said property to and in favour of her sons, *namely Charanjeet Singh and Baljeet Singh*, to the extent of half undivided share each.

54. There is also no challenge that Baljeet Singh had filed a Civil Suit No. 47/95 titled *Baljeet Singh v. Satvinder Kaur* (wife of Charanjeet Singh) in the Court of learned ADJ, Delhi wherein a statement was given by Smt. Satvinder Kaur on 20.05.1996, about her ownership, in the said Suit. The Suit was decreed *vide* Judgment dated 05.07.1996 Ex.DW2/A, wherein *Sardar Baljeet Singh was declared as the exclusive owner of the portion shown in red line in Site Plan Ex.C2*, while the Defendant/Satvinder Kaur was shown as the owner of the portion in blue line in the Ex.C2.

55. It is therefore, established from this judgment as well, that the entire property in question which had been purchased by Gian Singh, got divided



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into two equal parts, out of which one half, i.e. the suit property came to the share of Satvinder Kaur, wife of Charanjeet Singh.

56. This judgment established that Smt. Satvinder Kaur was the owner of half portion of the property in question. While it may be correct that the Plaintiffs and defendants were not a party to the said suit, but it establishes the partition between two brothers and half property coming to the share of late Charanjeet, through his legal heirs.

57. Thereafter, the Plaintiffs/Appellants had admitted execution of a Relinquishment Deed dated 12.02.1998 Ex. PW2/D2X, by them as well as by Defendant No. 1 Jagdeep Kaur Mehr, Defendant No.3Rupinder Pal Singhand Defendant No. 4 Swaranjeet Singh, the two sons and one daughter, in favour of their mother Smt. Satvinder Kaur,in respect of the property in question.

58. PW1-Sh. S. Sukhvinder Singh admitted in his cross-examination, that the Relinquishment Deed was executed in favour of their Mother Smt. Satvinder Kaur by all the siblings, for the sale of one part of the property. The original of this Relinquishment Deed, Ex.PW2/D2X was given to the person to whom a part of the property which came to their share, was sold. *He further admitted that this Relinquishment Deed was never cancelled by the Plaintiffs or by any other executants.*

59. Likewise, PW2-Sh. S. Satveer Singh during his cross-examination admitted his signatures and the photograph pasted on the Relinquishment DeedEx.PW2/D2X. He also admitted the execution of the Relinquishment Deed in favour of their mother Smt. Satvinder Kaur and also that this Relinquishment Deed has never been challenged.



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60. The learned District Judge referred to this Relinquishment Deed and observed that admittedly, this Deed had been executed by the releasers, i.e., the Plaintiffs, as well as Defendant No. 1, Defendant No. 3 and Defendant No. 4 voluntarily and therefore, *their rights in the Suit Property got extinguished and Smt. Satvinder Kaur became the absolute owner of the property in question.* It is further established from the evidence that all the parties acted on the Relinquishment Deed and the property was mutated in the name of Smt. Satvinder Kaur in the records of MCD/DDA. The Relinquishment Deed had been witnessed by two witnesses and was also notarised.

61. The perusal of the Relinquishment Deed reflects that it was executed in respect of the entire 108 sq. yards and was not confined either to the back portion or to the two shops. It was thus, established that by virtue of this Relinquishment Deed Ex.PW2/D2X, Smt. Satvinder Kaur acquired absolute ownership in the property in question, to the exclusion of the Plaintiffs as well as Defendants No. 1, 3 and 4.

62. The Plaintiffs have questioned the authenticity of the Relinquishment Deed, in their Suit. The learned *District Judge* rightly observed that the Plaintiff No. 1 Sh. S. Satveer Singh, was a retired Government official from DRDO, while Plaintiff No. 2 Sh. S. Sukhvinder Singh, was an Advocate. The Plaintiffs being well educated, it was highly improbable that they would have executed this Relinquishment Deed, Ex. PW2/D2X in favour of their mother, without being aware of its contents or under the impression that it pertained only to the back portion of the property in question. Both the Plaintiffs had signed this ***Relinquishment Deed and had never challenged***



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the same, till the filing of the present Suit on 11.08.2008. The argument that filing of the Suit automatically amounted to cancellation of the Relinquishment Deed dated 12.02.1998, was rightly held to be not acceptable under the law.

63. It is further not disputed by the Plaintiffs that on the basis of this Relinquishment Deed, Smt. Satvinder Kaur had sold the rear portion of the property in question and the Sale Deed was duly executed in favour of the purchaser Mr. Rohtash Aggarwal, in the year 1998. PW1Sh. S. Sukhvinder Singh had admitted in his cross-examination that whatever was the amount received from the purchaser, had been divided amongst all brothers and sisters *as per the wish of their mother*, which was accepted by all except Defendant No. 3 Rupinder Pal Singh, as he had already received his share in the property and was left with no interest in the property in question. This further reflects that mother had become exclusive owner and the rear portion was not only sold by her on the basis of Relinquishment Deed, but the sale proceeds had also been distributed, as per her wish.

64. Further, PW2Sh. S. Satveer Singh also admitted that the Sale Deed executed in favour of Rohtash Aggarwal, was not challenged as the sale was effected with the consent of all. He also admitted that except the front two shops, the remaining portion of property in question got sold in the year 1998. The documents of sale were admittedly executed by their mother in favour of Sh. Rohtash Aggarwal and admittedly this sale transaction was never challenged by any one of them. It clearly corroborates that Relinquishment Deed was duly accepted and acted upon, by the mother, with no objection by any party.



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65. The first material challenge raised by the ***Plaintiffs/Appellants*** is that ***the Relinquishment Deed Ex. PW2/D2X was not registered, but was a notarised document***, and therefore, did not have effect of creating an absolute right in Smt. Satvinder Kaur or of extinguishing the shares of the other co-owners in the Suit Property.

66. It is correct that Section 17 of the Indian Registration Act, 1908 clearly provides that where a non-testamentary instrument purports to operate, to create, declare, assign, limit or extinguish whether in present or in future, any right, title, interest of a value more than Rs.100/- in an immovable property, it requires compulsory registration. The question which thus, arises is what is the evidentiary value of this Relinquishment Deed dated 12.02.1998, which was admittedly executed by the Plaintiffs and Defendants No. 1, 3 and 4, in favour of their mother Smt. Satvinder Kaur.

67. While it may be observed that the Relinquishment Deed in order to be valid and legal, requires compulsory registration, but it cannot be overlooked that the document was in the nature of a family settlement whereby all other legal heirs agreed to relinquish their respective shares in favour of their mother Smt. Satvinder Kaur. Even if it is not considered as a Relinquishment Deed, ***it is valid as a family settlement***.

68. In the case of *S. Shanmugam Pillai and Others vs. K. Shanmugam Pillai and Others*, (1973) 2 SCR 312, the importance of family settlement was emphasized by observing that if it is in interest of family peace and that the family members have settled their disputes amicably. In such circumstances, the Court would generally lean in favour of the family arrangement and would be reluctant to disturb the same. The sanctity of the



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family arrangement can therefore, never be questioned and once the parties have arrived at a settlement, the general tendency is to uphold such family settlements.

69. The first aspect is to understand is what arrangement can be termed as family settlement. Halsbury's Laws of England, Vol. 17, Third Edition, defined a family arrangement as an agreement between members of the same family, intended to be generally and reasonably for the benefit of the family either by compromising doubtful or disputed rights or by preserving the family property or the peace and security of the family by avoiding litigation or by saving-its honour. Family arrangements are governed by principles which are not applicable to dealings between strangers.

70. Further, Sahu Madho Das and Others vs. Pandit Mukand Ram and Another, AIR 1955 SC 481 explained the basic eligibility for parties to enter into a Family Settlement, as under:

*“It is well settled that compromise or family arrangement is based on the assumption that **there is an antecedent title of some sort in the parties and the agreement acknowledges and defines what that title is**, each party relinquishing all claims to property other than that falling to his share and recognising the right of the others, as they had previously asserted it, to the portions allotted to them respectively. That explains why no conveyance is required in these cases to pass the title from the one in whom it resides to the person receiving it under the family arrangement. It is assumed that the title claimed by the person receiving the property, under the arrangement had*



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always resided in him or her so far as the property falling to his or her share is concerned and therefore no conveyance is necessary.”

71. The Supreme Court in the landmark Judgment of Kale and Others vs. Deputy Director of Consolidation and Ors (1976) 3 SCC 119, observed that the object of such an arrangement is to protect the family from long drawn litigation and perpetual disputes, which affect the unity and solidarity of the family and create hatred and bad blood between various members of the family. However, the *bonafide* and propriety of a family arrangement has to be judged by the circumstances prevailing at the time when such settlement was made. The onus of proving the family settlement, lies solely on the person claiming that a family Agreement existed.

72. Thus, the Supreme Court in Kale and Others vs. Deputy Director of Consolidation and Ors(supra) created two categories of family settlements, one being oral settlement and the other being written settlements. It was held that the prior does not require registration however, the latter would be a compulsorily registerable document. However, in the second category, an exception was carved out, i.e. ***if the Memorandum of Family Settlement was reduced to writing only for the purpose of record or for information of the court for making necessary mutation***, then it would be exempt from registration, as the Memorandum itself does not create or extinguish any rights in the immovable properties.

73. In Lieutenant Col. Gaj Singh Yadav vs. Satish Chander Yadav, 1999 (51) DRJ 240, it was explained that **if a party had a share in the property, enlargement of such share by relinquishment or gift by the other**



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defendant, would not require registration. It is only when a right in the property is created for the first time by a particular document, that it would require registration. Therefore, mischief of Section 49 of the Registration Act, 1908 would not fall on an oral settlement.

74. In a recent judgement of K. Arumuga Velaiah (supra), while emphasizing upon the distinction between Section 17(2) Clause (iv) and Clause (v) of the Registration Act. 1908, the Court observed that a document of partition which provides for effectuating a division of properties in future, would be exempt from registration. It was further crystallized that by virtue of Section 17(2) Clause (v) Registration Act 1908, any document which does not in itself create a right, title or interest in any immovable property but rather creates a right to obtain a subsequent document which when executed, would create a right in the property, the same does not require mandatory registration.

75. Admittedly, the parties acted on this Relinquishment Deed and ***the property stood mutated in the name of Smt. Satvinder Kaur.*** Not only this, she sold a part of the property in question with the knowledge and consent of all the other legal heirs, to which no objection whatsoever was taken by the parties to the present Suit. From the conduct of the Plaintiffs and Defendants No. 1, 3 and 4, it is evident that they all had relinquished their share in the suit property in favour of their mother, and such agreement was duly acted upon and the same was never questioned.

76. It is evident from the admissions made by the Plaintiffs in their respective testimonies that though the document deed dated 12.02.1998 had been termed as a Relinquishment Deed, but in fact, it was recording a



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settlement which had already been arrived at amongst the Plaintiffs and the Defendants.

77. Not only this, admittedly, Smt. Satvinder Kaur had rented out the Suit Shop to a tenant and the rent was exclusively being collected by her from the tenant as admitted by PW1-Sh. S. Sukhvinder Singh. He had deposed that prior to 2006, their mother was collecting about Rs.5,000/- to Rs.6,000/- per shop from the tenant. He further admitted that prior to the execution of sale documents, the mother was in possession of the Suit Shops. He further admitted that earlier to the sale of this shop, Mr. Montu Aggarwal was in possession of the shop, as a tenant. He though voluntarily claimed that at that time, he was not aware that Montu Aggarwal was son of Defendant No. 2 Smt Omwati, but he further deposed that he was not aware since when Sh. Montu Aggarwal was in possession of the shop as a tenant. Admittedly, the Rent Agreements with Montu Aggarwal had been executed by their mother who alone was collecting the rent.

78. PW2 Sh. S. Satveer Singh made similar admissions as PW1 in his testimony. The aforesaid circumstances, further reflected that the Relinquishment Deed Ex.PW2/D2X was duly acted upon and the Plaintiffs by their conduct reinforced that they had relinquished their respective shares in the suit property in favour of their mother Smt. Satvinder Kaur.

79. Furthermore, Defendant No. 4 Swaranjeet Singh, brother of the Plaintiffs, was admittedly a witness not only to the Agreement to Sell, etc., dated 03.04.2002 but even to the Sale Deed dated 27.01.2006 executed in favour of Defendant No. 2. The PW1 and PW2 admitted that Plaintiff No. 2- Sh. Sukhwinder Singh along with Defendants No. 3 and 4 S. Rupinder Pal



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Singh and S. Swaranjeet Singh respectively, had been residing with their mother at Sainik Farm property, which was claimed to be a joint family property.

80. The *learned District Judge* noted that despite residing with the mother, it is highly unlikely that Plaintiff No. 2 would not have the knowledge about the execution of transfer documents by their mother in favour of Defendant No. 1 Smt. Jagdeep Kaur Mehr. However, the Plaintiffs never challenged the Agreement to Sell, etc., dated 03.04.2002 ever till the filing of the suit on 07.08.2008. Likewise, the Sale Deed dated 27.01.2006 cannot be said to be not in the knowledge of the Plaintiffs, which came to be challenged only in the year 2008.

81. Another document which is of extreme significance to which a reference has been made by the Plaintiffs in their Replication, is the Memorandum of Understanding dated 26.02.2006, copy of which had been placed on record by them, regarding the sharing of this property in question. The Defendant No. 3 Sh. S. Rupinder Pal Singh, was to get a share in the sale proceeds of one shop from the Plaintiffs. It had been further agreed that one shop would go to their mother, Defendant No. 1 and Defendant No. 4 while the other shop was given to Defendant No. 3 and the Plaintiffs. Though, the said Memorandum had not been tendered in evidence by the Plaintiffs, yet from being the part of the pleadings and the documents relied upon by the Plaintiffs, it emerges from the MOU dated 26.02.2006 that the two shops, which includes the Suit Property, had been divided amongst the legal heirs of Charanjeet Singh and the suit property had been given to their mother, Defendant No. 1 and Defendant No. 4.



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82. PW1 Sh. S. Sukhvinder Singh had explained that the property at Sainik Farm was divided equally in the name of Plaintiff No. 2, Defendant No.3 and Defendant No.4, though no formal document was executed in this regard. The property after being divided, was built in the year 1998 by the mother and Plaintiff No. 1 Satveer Singh.

83. PW 2 Satveer Singh had further explained that in the year 1998, their sister Defendant No. 1 Smt. Jagdeep Kaur Mehr was to be married and for the purpose of arranging the funds, the family decided to sell the rear portion of the property in question at Gandhi Nagar, Delhi. In furtherance of such intent, the Relinquishment Deed dated 12.02.1998 was executed in favour of their mother.

84. In view of such explanation and admissions which have emerged in the testimony of the Plaintiffs, the circumstances lead to the inference that there was a family arrangement amongst the Plaintiffs and Defendants No. 1, 3 and 4 and their mother Smt. Satvinder Kaur in respect of the properties left behind by Sh. Charanjeet Singh. In terms of this family arrangement, the Plaintiffs and Defendants had relinquished their shares in Gandhi Nagar property in favour of their mother Smt. Satvinder Kaur which was reduced to writing in the form of a Relinquishment Deed dated 12.02.1998. Defendant No. 4 Swaranjeet Singh had not challenged these transfer documents executed in favour of either Defendant No. 1 or Defendant No. 2.

85. It is not the title given to the document which is of consequence, but the intent of parties which is relevant. Therefore, even if it is held that the Relinquishment Deed did not create absolute right in their mother, but she as



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well as Defendant No. 1 Jagdeep Kaur Mehr had acquired rights under the MOU dated 26.02.2006.

86. Furthermore, Section 41 of Transfer of Property Act, 1882 reads as under:

“41. Transfer by ostensible owner.—

Where, with the consent, express or implied, of the persons interested in immovable property, a person is the ostensible owner of such property and transfers the same for consideration, the transfer shall not be voidable on the ground that the transferor was not authorised to make it: provided that the transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer, has acted in good faith.”

87. This Section makes it evident that the mother Smt. Satvinder Kaur executed the Sale Deed in respect of the rare portion, with the express consent of all the parties to the Suit, who now allege to have a claim in the subject property.

88. In terms of Section 41 of Transfer of Property Act, 1882, Smt. Satvinder Kaur acted as an ostensible owner in executing the Agreement to Sell, etc., dated 03.04.2002 in favour of Defendant No. 1 Smt. Jagdeep Kaur Mehr, W/O Sh. Karamvir Singh Mehr, who having acquired a right, title, interest by virtue of this Agreement to Sell/registered GPA Ex.PW3/A, was competent to thereafter, execute the Sale Deed dated 27.01.2006Ex.PW4/A in favour of Omwati.

89. The Coordinate Bench of this Court in Som Dutt v. Shaima Devi, 2012 SCC OnLine Del 494, in similar circumstances, held that even if it is assumed that the argument of the Plaintiffs of the Defendant not being the



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actual owner, is held to be correct, then too, the fact that for 18 long years the Suit Property was continued to be reflected in the ownership of the Defendant No. 1, Section 41 TPA gives a complete protection in respect of the title derived by her.

90. Similarly, Karnataka High Court in SeshmullM. Shah v. Sayed Abdul Rashid, 1990 SCC OnLine Kar 392, similarly observed that Section 41 TDA is in the nature of *an exception to the rule that a person cannot confer a title better than what he has*. This Section provides that the transfer shall not be avoidable on the ground that the transferor was not authorized to make it, where such consent either expressed or implied of the real owner can be inferred; transferor being the ostensible owner of the Suit Property having transferred it for consideration, is a valid transaction. *This principle is essentially based on equity* that one who allows another to hold himself up as the owner of the estate and the third party purchased it for value from such ostensible owner in the belief that he is the real owner, then the person who allowed the other to hold themselves out as owner shall not be permitted to recover his title unless he is able to show that the purchaser had direct or constructive notice about the real title of the property in the person concerned.

91. ***Further, Section 43 Transfer of Property Act, 1882*** provides that where a person erroneously or otherwise represents that he is authorised to transfer certain immovable property and does so for consideration, then such transfer shall at the option of transferee, operate on any interest which the transferor may acquire such property at any time, during which the contract of transfer subsets.



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92. The property having been sold by Smt. Satvinder Kaur for consideration, without any objection from the parties, this transaction is also protected by virtue of S.43 TPA.

93. From the aforesaid discussion, it is evident that the Plaintiffs were not entitled to the relief as claimed in the Suit. Thus, it has been rightly held by the learned District Judge that the Smt. Satvinder Kaur had acquired absolute ownership and had validly executed the sale document in favour of Defendant No. 1 Jagdeep Kaur Mehr who on the basis of GPA had thereafter executed the Sale Deed dated 27.01.2006 in favour of Defendant No. 2 Smt. Omwati.

94. The learned District Judge has rightly ***dismissed the Suit.***

95. **There is no merit in the present Appeal, which is hereby, dismissed.** The pending Applications, if any, are disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

JULY 1, 2026/N