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

+ **CS(OS) 185/2021 and CRL.M.A. 13405/2023, 4687/2021, 10604/2021, 14969/2021, 676/2022, 1769/2022**

**MASTER ARMAAN GULATI (MINOR) & ANR..... Plaintiffs**

Through: Mr. R.Y. Kalia, Adv. (M: 9717490094)

versus

**GEETA GULATI, ALIAS SWARAN KANTA & ORS.**

..... Defendants

Through: Mr. Mohit Bakhshi, Advocate for D-1 and 2 (M: 9820609360).

Mr. L R Goyal, Advocate for Axis Bank (M: 09312396267).

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **03.04.2024**

1. This hearing has been done through hybrid mode.

**CRL.M.A. 13405/2023**

2. This is an application under Section 340 along with Section 195 of Cr.P.C. In view of the fact that the parties are family members, who appear to be, now, on the verge of resolving their disputes, at this stage, this application is not entertained.

3. If there is any non-disclosure or concealment by any of the parties, at the later stage, parties are permitted to avail of their remedies in accordance with law.

4. Application is disposed of.



**I.A. 1769/2022 ( under Section 45 and 72)**

5. This is an application seeking production of the registered original Will.

6. In view of the preliminary decree being passed today, the production of Will and the comparison of the signature is no longer required. The application is infructuous.

7. Application is disposed of.

**I.A. 4687/2021 ( for permission)**

8. This is an application on behalf of Plaintiffs filed under Section 17 of CPC seeking permission for institution of suit in appropriate jurisdiction. Jurisdiction of this Court to deal with all the moveable and immoveable properties is no longer questioned in view of the previous order and the preliminary decree passed today.

9. Application is disposed of.

**I.A. 10604/2021 (u/O VII Rule 11 CPC)**

10. In view of the preliminary decree which has been passed, the application under Order VII Rule 11 CPC no longer survives. Insofar as Court fee is concerned, considering the preliminary decree, at the final stage, once the assets are divided, Court fee in accordance with law would be required to be paid by all the parties.

11. Application is disposed of.

**I.A. 14969/2021 ( for summon)**

12. Plaintiffs have appeared today and Plaintiff No. 2 has made a statement that she has no objection if the decree to the extent of one-third is passed as already captured above. In view thereof, oral examination of the Plaintiffs would not be required.



13. However, after disclosure of bank statements, if any statements are to be recorded, at that stage, the prayer may be renewed before the Court.

14. Application is disposed of.

**I.A. 676/2022( to place on record bank statement)**

15. In view of the direction issued for production of bank statements of all the accounts as contained in paragraph 11 of the previous order dated 4th March, 2024 by the respective parties, no further orders would be required in this particular application.

16. If after the production of bank statements along with affidavits, any further orders are required, the same shall be pointed out at that stage.

17. Application is disposed of.

**CS(OS) 185/2021**

18. Mrs. Jyotsana Gulati along with her son-Master Armaan Gulati are present in Court. She has made a statement to the Court that she is willing that the decree may be passed for 1/3<sup>rd</sup> share being given to herself and her son jointly in respect of all the moveable and immovable assets as stated in the plaint.

19. Her statement is taken on record. In view of the statement made by the Plaintiff No. 2- Ms. Jyotsana Gulati today, both on behalf of herself and her son, a preliminary decree is passed declaring the respective shares of parties, in the following terms, in respect of the moveable and immovable assets of late Mr. Surendra Gulati and late Mr. Mayank Gulati-

| Sl. No. | Plaintiff/Defendant          | Share in movable and immovable properties |
|---------|------------------------------|-------------------------------------------|
| 1.      | Master Armaan Gulati (Minor) | 1/3rd jointly                             |



|    |                                         |       |
|----|-----------------------------------------|-------|
| 2. | Smt. Jyotsana Gulati                    |       |
| 3. | Smt. Geeta Gulati<br>Alias Swaran Kanta | 1/3rd |
| 4. | Mrs. Kompal Gulati                      | 1/3rd |

20. Insofar as two lockers are concerned in Axis Bank, the Court had appointed a Local Commissioner on the last occasion and the said lockers are stated to have been opened in the presence of the Commissioner and the contents of the said lockers have been divided to the satisfaction of all the three parties.

21. Mr. L. R. Goyal, Id. Counsel appearing for the Axis Bank submits that a sum of Rs.45,300/- is due and has to be paid to the Bank. However, neither of the parties is paying the same.

22. In view of the fact that the contents of the lockers have been divided one third each, the said amount for the locker at the Axis bank shall also be borne one-third each by the parties, namely, Mrs. Jyotsana Gulati Rs.15,100/-, Smt. Geeta Gulati, 15,100/- and Mrs. Kompal Gulati, Rs. 15,100/-. The same shall be paid within two weeks with the Bank.

23. The list of immovable properties are given as under:

**Immoveable Properties.**

a) *Property bearing No. H-35/5 having an area measuring 336 sq. Mtrs. situated at DLF Qutab Enclave Complex Gurugram, Haryana was purchased in the name of the Defendant No. 1 by Late Surendra Gulati who had also contributed/ paid the sale consideration amount in installments from his Accounts as well as from the Account of "Ad Spots" and others Accounts of family members in a fiduciary capacity.*



- b) *Property bearing No. D-27 having an area 297 sq. Yds situated at Mansarover Garden, New Delhi was purchased in his own name from his own funds, through Cheque/ Drafts for the benefit of his entire family.*
- c) *Land Measuring 1 Bigha 17 Biswasa bearing Khata No. 2125/ 1768 situated at Muza Kasauli Pargana Basal Tehsil Kasauli District Solan Himachal Pradesh was purchased in the name of Defendant No. 1 in a fiduciary capacity for the benefit of the family and the sale consideration was contributed/ paid by Late Surendra Gulati from the Firm "Ad Spots"*
- d) *Plot bearing No: 97 Block A in sector 105 having an area measuring 450 sq. Mtrs. situated at Noida, Uttar Pradesh was purchased in the name of Late Mayank Gulati in a fiduciary capacity and the sale consideration has been contributed from the accounts of "Ad Spots" and also from the accounts(s) of other family members. It is submitted that after taking the possession of the above said Plot a single storied house was constructed and the entire cost of construction of the said Plot had been paid and contributed from the account of "Ad Spots". Property mentioned at serial (a) above is situated in the Municipal Limits. of Municipal Corporation of Gurugram in Gurugram Haryana. Property mentioned at Serial (b) above, is situated within the Municipal limits of Municipal Corporation of Delhi.*

24. Insofar as the immovable properties are concerned, the following proposals are made by the Plaintiff:-

- i) With respect to property (a) as above, it is submitted by Id. Counsel for the Plaintiff that the Plaintiff has no objection if the said property is given to the mother and sister in law.
- ii) For property (b) as mentioned above, the Plaintiff's stand is that since the Plaintiff No.2 and her son are living in this property



for several years, this property may be given in the share of the Plaintiffs.

- iii) Insofar as land (c) is concerned, it is a total of 1 Bigha 17 Biswas. The entire land except 13 biswas is stated to have been sold by the mother. Only 13 biswas is stated to be unsold. Let the Defendant place on record the sale deed along with an affidavit stating what is the total sale consideration received in respect of this land. Insofar as the 13 biswas is concerned which is approximately 2000 sq. yds, parties may seek instructions as to whether the same should be sold, if so, in what manner.
- iv) Insofar as the Noida property (d) is concerned, the same is stated to have been allotted exclusively in the name of Mr. Mayank Gulati. Parties to seek instructions as to whether the same should be auctioned or sold in the open market.

**Moveable Properties.**

25. There are several bank accounts which are mentioned as part of the list of moveable properties. According to the Plaintiffs, a large sum of approximately Rs.7.5 crores has been illegally withdrawn by the sister in law and mother in law, from these bank accounts.

26. Ld. Counsel for the Plaintiffs submits that a Chartered Accountant be appointed to conduct an audit.

27. Ld. Counsel for the Defendant submits that seven bank accounts are in the control of the Plaintiffs.

28. Let the bank statement of all the bank accounts be filed by the respective parties who are controlling these bank accounts. The Court shall,



after the bank statements received, appoint an independent Chartered Accountant to conduct an audit.

29. The affidavits in respect of the moveable assets along with bank statements as also the Himachal land be filed by all the parties within four weeks.

30. List for receiving the affidavits on 9th July, 2024.

**PRATHIBA M. SINGH, J.**

**APRIL 3, 2024**

*mr/bh*