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

+ **CS(OS) 244/2024**

RADHA ORS.

..... Plaintiffs

Through: **Mr.Samrat Nigam, Ms.Stuti Gutpa
and Ms.Arpita Rawat, Advts.**

versus

RAM KISHAN ORS.

..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

01.04.2024

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I.A. 6755/2024 (exemption)

1. Exemption is allowed subject to all just exceptions.
2. Application stands disposed of.

CS(OS) 244/2024

3. Present suit has been filed for declaration, cancellation of documents, and mandatory and permanent injunction with the following prayers:

a. Pass a decree of declaration in favor of Plaintiffs & against the Defendants, thereby declaring that Registered General Power of Attorney dated 08.11.1995 & Registered Will dated 08.11.1995 executed by Dinesh Kumar in favor Ram Kishan (Defendant no. 1) w.r.t Khasra no. 332/80 as illegal, fraudulent, wrongful, null & void;

b. Pass a decree of declaration in favor of Plaintiffs & against the Defendants, thereby declaring that Registered General Power of Attorney dated 06.02.1996 & Registered Will dated 06.02.1996 executed by Dinesh Kumar in favor Ram Kishan (Defendant no. 1)



w.r.t Khasra no. 332/80 as illegal, fraudulent, wrongful, null & void;

c. Pass a decree of declaration in favor of Plaintiffs, thereby declaring that

the Plaintiffs are the lawful owner of property falling Khasra no.332/80, measuring 788 sq. yds. Village Chilla, Mayur Vihar Phase I, Delhi as shown in the site plan filed along with the plaint and are in lawful possession of the suit property;

d. Pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants, thereby restraining the Defendant no. 1 to 3 from alienation, transferring, selling, dispossessing the Plaintiffs and/or from obstructing or interfering with the possession of the plaintiffs, their associates, tenants etc. from the suit property measuring 788 sq. yds., falling in Khasra no. 332/80, Village Chilla, Mayur Vihar, Phase-1, Delhi, as shown in the site plan;

4. Learned counsel submits that the present case pertains to a property dispute concerning property measuring 788 sq. yds. situated in Khasra no. 332/80, Village – Chilla, Mayur Vihar, Delhi. Learned counsel submits that the property was purchased by late Sh. Satish Kumar, husband of plaintiff no.1. Sh. Satish Kumar died in the year 2005 leaving behind plaintiff No. 1 and other plaintiffs.
5. Learned counsel further submits that after the death of the late Sh. Satish Kumar, defendant no.1, who is the father-in-law of plaintiff no.1 started collecting rent from the tenants of the property and initially, defendant no.1 supported the plaintiff in household expenses, however thereafter his behaviour changed and he started harassing plaintiff no.1 with ill intention including attempts to outrage her modesty. Learned counsel submits that the relation between the parties is quite acrimonious and there are 20 litigations pending between them including a case under Section 354 IPC lodged by plaintiff no.1 against defendant no.1.



6. Learned counsel further submits that in 2023 defendant no.1 filed a petition under the Maintenance and Welfare of Parents and Senior Citizens Act, 2017 seeking eviction of the plaintiffs from the property. The eviction order was passed by the SDM which has been challenged by the plaintiff vide W.P.(C) No.3682/2024.
7. Learned counsel submits that during the proceedings before the SDM, the defendants produced certain forged and fabricated documents including GPA and Will dated 08.11.1995 and 05.02.1996. Learned counsel submits that admittedly neither the plaintiffs nor the defendants are in possession of the suit property. Learned counsel submits that the suit property is in possession of the tenants of the plaintiffs.
8. Let the plaint be registered as a suit.
9. Summons be issued to the defendants by all permissible modes, which shall indicate that the written statements must be filed within thirty days from the date of receipt of the summons.
10. The defendants are directed to file an affidavit of admission/denial against the documents filed by the plaintiff, failing which the written statement shall not be taken on record.
11. The plaintiff is at liberty to file replications thereto within fifteen days of filing of the written statements, which 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.
12. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.
13. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.



14. List before the Joint Registrar (Judicial) on 15.05.2024.

I.A. 6754/2024 (ORDER XXXIX R 1 AND 2 CPC)

15. The present application has been filed under Order XXXIX Rules 1 and 2 CPC with the following prayers:

a. Grant ex-parte stay in favor of the Plaintiffs and against the Defendant no. 1 to 3, thereby restraining the Defendant no. 1 to 3 from alienation, transferring, selling, dispossessing the Plaintiffs and/or from obstructing or interfering the possession of the plaintiffs, their associates, tenants etc. from the suit property measuring 788 sq. yds. falling in Khasra no. 332/80, Village Chilla, Mayur Vihar, Delhi;

b. Grant ex-parte stay in favor of the Plaintiffs and against the Defendant no. 1, thereby staying. the execution of eviction order dated 06.02.2024 passed by the Ld. DM in matter titled as "Ram Kishan vs Radha & Ors" during the pendency of the present suit, as the Ld. DM has relied upon forged and fabricated alleged title documents filed by the defendant no. 1, which have been challenged by the Plaintiffs in the present suit.

16. Learned counsel for the plaintiff has pressed for an order of status quo regarding the title and possession of the suit property. However, there is no document showing the title of the plaintiffs.

17. Issue notice to the defendant through all permissible modes, returnable for 15.05.2024 before the Joint Registrar (Judicial).

DINESH KUMAR SHARMA, J

APRIL 1, 2024

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