



\$~66

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 281/2024**
MADHAV SHANKAR

..... Plaintiff

Through: Mr. Akshay Makhija, Sr. Adv. with
Mr. Puneet Singh Bindra, Mr. Akshay Sharma,
Mr. Sameer Sethi, Mr. Rishabh Gupta, Advs.

versus

RAGHAV SHANKAR

..... Defendant

Through:

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **05.04.2024**

I.A. 7754/2024-EX.

10. Exemption is granted subject to all just exceptions.
11. The plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.
12. The application is disposed of.

CS(OS) 281/2024

13. This is a suit seeking specific performance of the Memorandum of Family Settlement dated 27.10.2019.
14. As per the settlement, the property in question bearing No. 62, GF and FF, Lot-1, SFS-III, Anupam Apartments, M.B. Road, Saket, Delhi was owned by the mother (Late Smt. Maya Ratti Chaturvedi) of the



plaintiff and the defendant (who is the brother of the plaintiff).

15. As per the family settlement, it was decided that after the death of the mother, the property shall be sold and the proceeds shall be divided equally between the plaintiff and the defendant.
16. It is stated that even though the defendant has been promising compliance of the Memorandum of Family Settlement dated 27.10.2019, the defendant is not proceeding with the sale of the said property. Hence, the present suit.
17. For the reasons stated, let plaint be registered.
18. Issue summons to the defendant through all permissible modes including *dasti*.
19. List before the Joint Registrar on 10.07.2024.
20. List before this Court on 28.08.2024.

I.A. 7753/2024-UNDER ORDER 39 RULE 1 & 2 CPC/RESTRaining

21. This is an application seeking ad interim ex parte orders.
22. As already stated, the property namely 62, GF and FF, Anupam Apartments, M.B. Road, Saket, Delhi belonged to the mother (Late Smt. Maya Ratti Chaturvedi) of the plaintiff and the defendant (who is the brother of the plaintiff).
23. As per the Memorandum of Family Settlement dated 27.10.2019, this property was to be sold and the sale proceeds were to be divided equally between the plaintiff and the defendant.
24. Despite the defendant assuring the plaintiff that the needful shall be done, the defendant is not proceeding to sell the said property.
25. As of now, the property is lying vacant and it is the apprehension of the plaintiff that the defendant shall occupy the same as he has tried to



do.

26. The plaintiff further apprehends that the defendant or somebody through them will re-enter/ occupy and possess the suit property.
27. For the reasons noted above, I am of the view that the plaintiff has a *prima facie* case. Balance of convenience lies in favour of the plaintiff and if ad interim ex-parte orders are not granted, the plaintiff may suffer irreparable loss and injury which cannot be compensated in terms of money.
28. For the said reasons, it is directed that the defendant and his agents, servants, legal heirs, attorneys, representative, employee, friends associates etc. are restrained from re-entering/ occupying/ possessing/ selling/ alienating/ transferring or creating third party interest in the property namely 62, GF and FF, Anupam Apartments, M.B. Road, Saket, Delhi till the next date of hearing.
29. Provisions of Order XXXIX Rule 3 of CPC be complied within 2 weeks from today.
30. List before the Joint Registrar on 10.07.2024.
31. List before this Court on 28.08.2024.

I.A. 7755/2024-EXTENSION OF TIME IN PAYING REQUISITE COURT FEES

32. This is an application seeking extension of time in paying the requisite Court fee.
33. For the reasons stated in the application, the application is allowed and the requisite Court fee be deposited within 2 weeks from today.



I.A. 7756/2024-EX. FROM AFFECTING ADVANCE SERVICE UPON DEFENDANT

34. This is an application seeking exemption from affecting advance service upon the defendant.
35. For the reasons stated in the application, the application is allowed.

JASMEET SINGH, J

APRIL 5, 2024 / (MS)

Click here to check corrigendum, if any