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

+ **CS(OS) 335/2023**

ESVINDER SINGH & ORS. Plaintiffs

Through: Mr. C. M. Lall, Sr. Advocate with
Mr. Jatin Sharma, Advocate

versus

M/S. SWISS INTERNATIONAL I & ORS. Defendants

Through: Ms. Savita Malhotra, Mr. Suman
Malhotra and Mr. Saatwic Malhotra,
Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **25.05.2023**

I.A. 10309/2023 (Exemption from filing certified copies/legible copies) & I.A. 10310/2023 (Exemption from filing typed and English translation of documents)

Subject to the plaintiffs filing the clear, original, true typed copies of documents, English translation copies of documents and legible/typed copies of any dim documents and on which the plaintiffs may seek to place reliance, within four weeks from today, exemption is granted for the present.

The applications stand disposed of.

CS(OS) 335/2023 & I.A. 10308/2023 (Under Section 15A of the CPC)

1. The instant plaint has been filed on behalf of the plaintiffs seeking the



following reliefs:-

- “a. Pass a decree in favour of the Plaintiffs and against the Defendants whereby directing the Defendants to pay a sum of INR 3,32,57,000/- to the Plaintiffs and direct the Defendants to pay further pendente lite and future interest from time to time @ 18% per annum until payment of the said money till its realization along with all the applicable taxes.*
- b. Pass an order to declare the defendants as an illegal occupant qua the share of the Plaintiffs in the suit properties no. 1 & 2;*
- c. The cost of the suit throughout may also be awarded in favour of the plaintiffs and against the defendants.*
- d. Any other or further order(s) which the Hon'ble Court deem fit, just and proper under the facts and circumstances of the case, may also be passed in favour of the plaintiffs and against the defendants, in the interest of justice.”*

2. Learned counsel appearing on behalf of the plaintiffs submitted that the plaintiff no.1 and the defendant no.2, both are sons of Late S. Ajit Singh and are residing at same house as mentioned in the memo of parties and enjoying common food, common shelter and worship. The father of plaintiff no. 1 and defendant no. 2 created an HUF and both the plaintiff no. 1 and the defendant no. 2 are the coparceners of said HUF of Late S. Ajit Singh.

3. It is submitted that on 29th September, 2014, the defendants no.2, 3, 4 and 6 through the defendant no. 2 had agreed and admitted to the division of the family business, properties, family trademarks, business items etc. among both the brothers and the respective families as per the ratio/shares declared in the family settlement, but even though, the defendant no.2 in 2016 deliberately and with *mala fide* intention filed a suit for the infringement of Trade Mark of the Family Brand "SAP SWISS" against another family company i.e. Swiss Auto Pvt. Ltd. which came into the share



of the plaintiffs. However, in the year 2017, the plaintiffs also filed a suit for the partition of the properties and family brands *vide* CS (OS) No. 232/17.

4. It is submitted that the defendants did not honor the decree and the plaintiffs on being aggrieved by that, had filed a suit bearing no. CS(OS) 193/2021 titled as "Esvinder Singh & Ors. Vs. Chasvinder Singh & Ors." suit for eviction, possession, recovery of mesne profits, occupational charges and declaring defendants as illegal occupants *qua* property bearing no. 18, Rajasthani Udyog Nagar, GTK Road, New Delhi- 110033. The matter is *subjudice* and pending at the stage of completion of pleadings.

5. It is submitted that defendants with their *mala fide* intentions had also filed a suit bearing no. CS (Comm.) No. 480/2022, titled as Chasvinder & ors. vs. Esvinder Singh & Ors. for suit for recovery.

6. It is submitted that the suit properties are under 100% possession of the defendants, and the defendants are using the same solely for their self-gains, therefore, the defendants are liable to be evicted from the share of the plaintiffs in the suit properties.

7. It is submitted that the defendants have deliberately and with *mala fide* intentions not only occupied whole of the suit properties but also sub-let Manesar property i.e. bearing no. 185, Sector-4, Manesar, Gurugram, Haryana to their own partnership firm M/s. Swiss International (I) at a very minimal rent.

8. It is submitted that the plaintiffs have their legal rights on the 40% share of the suit properties but due to the illegal and unlawful activities of the defendants, the plaintiffs are being deprived from their legal rights to use and enjoy their statutory 40% share in the suit properties.

9. Heard learned counsel for the plaintiffs and perused the record.



10. Let the plaint be registered as a suit.
11. Issue summons of the suit and notice of I.A. 10308/2023. Learned counsel appearing on behalf of the defendants accepted summons of the suit and notice of the I.A. 10308/2023.
12. The summons shall indicate the written statement(s) shall be filed within thirty days by the defendants from the date of receipt of summons.
13. Along with the written statement(s), the defendants shall also file affidavit of admission/denial of the documents of the plaintiff.
14. Liberty is given to the plaintiffs to file replication(s), if any, within thirty days from the receipt of the written statement(s). Alongwith the replication(s) filed by the plaintiffs, affidavit of admission/denial of the documents of the defendants be filed by the plaintiffs.
15. List before the Joint Registrar on 27th July, 2023 for completion of service and pleadings.
16. List before the Court on 11th October, 2023.

I.A. 10307/2023 (Under Order XXXIX Rule 1 and 2)

1. The instant application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the plaintiffs seeking the following reliefs:

“It is, therefore most humbly prayed that an ex-parte ad-interim injunction may kindly be granted in favour of the applicants/plaintiffs and against the defendants thereby restraining the defendants, his family members, his agents, contractors, employees, labourers, attorneys and nominees, associates etc. from creating any third party interest/part with possession in the suit properties : Village Kheri, p.o. Trilok puri, kale amb, tehsil nahan, distt. simour - 173030 H.P. and 185, sector-4, IMT manesar, gurugram, haryana till the final disposal of the present suit.”



2. Heard.
3. Issue notice. Learned counsel for the defendants accepted notice.
4. Reply(ies) be filed within four weeks.
5. Rejoinder(s) thereto, if any, be filed within two weeks thereafter.
6. List before the Joint Registrar on 27th July, 2023 for completion of service and pleadings.
7. List before the Court on 11th October, 2023.

CHANDRA DHARI SINGH, J

MAY 25, 2023
gs/as

Click here to check corrigendum, if any