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

+ **CS(OS) 385/2021 & I.A. 14208/2021**

BHUSHAN KUMAR MANCHANDA

..... Plaintiff

Through: Mr. Nimishlhib, Mr. Neeleshwar
Kaushik, Advocates.

versus

RAJNI NARANG & ANR.

..... Defendant

Through: Mr. Bharti Tyagi, Mr. Vikas Kumar,
Advocates.
Mr. Achin Mittal, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

06.09.2022

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I.A. 1056/2022

1. Application under Order I Rule 10 read with Section 151 CPC, 1908 has been filed on behalf of the proposed defendant no. 3, Ms. Malti Vig.
2. It is submitted in the application that a suit for partition of immovable property bearing no. B-25, Gujranwala Town, Part-I, Delhi-110009 had been filed by the plaintiff.
3. The property was owned by Mr. Vishnu Bhagwan Manchanda being the paternal uncle of the applicant who had expired intestate in the year 2003. The only surviving legal heir was Ms. Darshna Rani who inherited the property.
4. Ms. Darshna Rani died in the year 2017 leaving no class-I legal heirs. Plaintiff and Defendants and also the applicant herein are the eligible



Class-II legal heir entitled to the the property.

5. The applicant is the real sister of the plaintiff and defendant and is also a Class-II legal heir. She has been requesting for a share in the property of Ms. Darshna Rani from the plaintiff and defendant who have equal share in the property.

6. The present petition has been filed but the applicant who stands at the same footing as plaintiff and the defendant, has not been impleaded as a party. In fact, the matter has been settled between the plaintiff and the defendant and an application under Section 23(3) CPC has also been filed which is illegal in the absence of the applicant. Applicant being entitled to get equal share in the property of Ms. Darshna Rani is entitled to be impleaded as a party. A prayer is therefore made that she may be impleaded as a party.

7. Learned counsel for the defendant in her reply has submitted that she had been residing with the deceased during her lifetime and had performed her last rites. A Will dated 02.11.2015 had been executed by Late Ms. Darshna Rani in favour of the plaintiff and the defendant nos. 1 and 2 only, no share has been given to the applicant and therefore she is not proper and necessary party to the present suit.

8. Plaintiff had been given opportunity to file the reply despite which no reply has been filed.

9. The plaintiff and defendants are claiming a right to the property of Ms. Darshna Rani on the basis of the Will dated 02.11.2015. However, the applicant is a real sister of the plaintiff and the defendant and is challenging the genuineness of the Will and his claiming an equal share in the property of Ms. Darshna Rani.



10. She is a necessary and proper party and may be impleaded as defendant no. 3.
11. Amended memo along with the written statement be filed within 30 days.
12. The matter be listed before the Learned Joint Registrar on 3rd November, 2022 for completion of pleadings
13. Learned counsel for the parties submits that in the interim the matter be referred to the Delhi High Court Mediation and Conciliation Center.
14. The parties are directed to appear before the Delhi High Court Mediation and Conciliation Center on 13.09.2022 at 3:30pm.

NEENA BANSAL KRISHNA, J

SEPTEMBER 6, 2022/PA