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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 106/2007 & I.A. 3784/2019, I.A. 17799/2019**

SMT. SHASHI JAI KRISHNA & ANR. Plaintiffs

Through: Mr. Manish Kumar, Mr. Rahul Chaprana, Mr. Hyyat Ahluwalia & Mr. Piyush Kaushik, Advocates.

versus

SHRI DESH RAJ GUPTA & ORS. Defendants

Through: Mr. Sameer Vashisht, Mr. Manashwy Jha & Ms. Sanjana Nangia, Advocates for D-1.
Mr. Anish Kapur, Advocate for D-3.
Mr. P.S. Bindra, Sr. Advocate with Ms. Rishika Arora, Advocates for D-4.
Mr. Viraj R. Datar, Sr. Advocate with Mr. Nitish Chaudhary for the proposed defendants-Avanti Pandit, Arti Kirloskar.
Mr. Ankur Mahindra, Ms. Megha Aggarwal, Ms. Shresth Choudhary & Mr. Aditya Kapur, Advocates for applicant-Mr. Jayant Gupta.

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+ **CS(OS) 1284/2002**
RAJENDRA KUMAR GUPTA Plaintiff

Through: Mr. Anish Kapur, Advocate.

versus

DESH RAJ GUPTA AND ORS. Defendants

Through: Mr. Sameer Vashisht, Mr. Manashwy



Jha & Ms. Sanjana Nangia,
Advocates for D-1.

Mr. Manish Kumar, Mr. Piyush
Kaushik & Mr. Rahul Chaprana,
Advocates for D-4 & 5.

Mr. P.S. Bindra, Sr. Advocate with
Ms. Rishika Arora, Advocates for
D-6.

Mr. Viraj R. Datar, Sr. Advocate with
Mr. Nitish Chaudhary for the
proposed defendants-Avanti Pandit,
Arti Kirloskar.

Mr. Ankur Mahindra, Ms. Megha
Aggarwal, Ms. Shresth Choudhary &
Mr. Aditya Kapur, Advocates for
applicant-Mr. Jayant Gupta.

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CS(OS) 1308/2002 & I.A. 11187/2016, I.A. 5112/2017, I.A. 8524/2017, I.A. 11670/2020, I.A. 4370/2021, I.A. 11303/2021, I.A. 11304/2021, I.A. 11328/2021, I.A. 14786/2021

MAHENDRA KUMAR GUPTA

..... Plaintiff

Through: Mr. P.S. Bindra, Sr. Advocate with
Ms. Rishika Arora, Advocates.

versus

DESH RAJ GUPTA AND ANR.

..... Defendants

Through: Mr. Sameer Vashisht, Mr. Manashwy
Jha & Ms. Sanjana Nangia,
Advocates for D-1.
Mr. Manish Kumar, Mr. Piyush
Kaushik & Mr. Rahul Chaprana,
Advocates for D-4 & 5.
Mr. Anish Kapur, Advocate for D-6.
Mr. Viraj R. Datar, Sr. Advocate with
Mr. Nitish Chaudhary for the



proposed defendants-Avanti Pandit, Arti Kirloskar.

Mr. Ankur Mahindra, Ms. Megha Aggarwal, Ms. Shresth Choudhary & Mr. Aditya Kapur, Advocates for applicant-Mr. Jayant Gupta.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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25.05.2022

I.A. No. 11304/2021 & 11328/2021 (under Order 22 Rule 4 read with Section 151 of the CPC) in CS(OS) 1308/2002

I.A. No. 11329/2021 & 14784/2021 (under Order 22, Rule 4 read with Section 151 of the CPC) in CS(OS) 1284/2002

I.A. No. 11327/2021 & 14820/2021 (under Order 22 Rule 4 read with Section 151 of the CPC) in CS(OS) 106/2007

1. The abovementioned applications relate to the substitution of legal representatives of late Shri Shiv Raj Gupta (defendant no.2 in CS(OS) 106/2007 and defendant no.3 in CS(OS) 1308/2002 and CS(OS) 1284/2002).
2. The present suits have been filed by the plaintiffs for partition, possession, use and occupation charges/ *mesne profits* in respect of property bearing No. 3, Amrita Shergill Marg, New Delhi-110003.
3. Mr. Jayant Gupta in his application under Order XXII Rule 4 of CPC (in CS(OS) 106/2007) has stated that his father Shri Shiv Raj Gupta passed away on 02nd May, 2021, and is survived by his son, Mr. Jayant Gupta and two daughters, Mrs. Arti Kirloskar, and Mrs. Avanti Pandit. The deceased left behind a registered Will dated 25th September, 2007 along with Addendum dated 13th March, 2008, whereby Mr. Jayant Gupta was appointed as the sole Executor to the Will and the entire estate including the



property in question has been bequeathed to Mr. Jayant Gupta except certain payment to be made within five years to Mrs. Avanti Pandit and to his four granddaughters. The daughters i.e. Mrs. Avanti Pandit and Mrs. Arti Kirloskar executed various documents accepting the Will and the Addendum of the Defendant No. 3; the Deed of Declaration dated 13th March, 2008 and the Family Settlement Deed dated 31st January, 2012 executed by Mrs. Avanti Pandit and Mrs. Arti Kirloskar respectively, are appended with the application. The right to sue survives solely and exclusively in favour of Shri Jayant Gupta being the sole Executor of the Will, and thus, be substituted as the legal representative of the deceased Late Shri Shiv Raj Gupta. Mrs.

4. Ms. Arti Kirloskar, daughter of Late Sh. Shiv Raj Gupta in her application under Order XXII Rule 4 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) filed in CS(OS) 1308/2002 has simply asserted that since the deceased Late Shri Shiv Raj Gupta is survived by the son and two daughters who all may be impleaded as legal representatives of deceased Late Shri Shiv Raj Gupta.

5. Mrs Avanti Pandit was duly served with the application but she has chosen not to contest the application.

6. Submissions heard.

7. It is not in dispute that deceased Late Shri Shiv Raj Gupta had executed a Will dated 25th September, 2007, and thereafter an Addendum dated 13th March, 2008 bequeathing his entire estate to his son Mr. Jayant Gupta while making provision for giving some money as stated therein to his daughter/granddaughters. The authenticity of the Will was endorsed by Mrs. Avanti Pandit by way of Deed of Declaration dated 13th March, 2008.



A Family Settlement Deed dated 31st January, 2012 executed between deceased late Shri Shiv Raj Gupta, Mr. Jayant Gupta and Mrs. Arti Kirloskar, re-affirmed the Will and its Addendum.

8. The aforementioned documents, the authenticity of which has not been challenged by the parties, establish that the estate of late Shri Shiv Raj Gupta has been bequeathed to Mr. Jayant Gupta. Moreover, he is the named Executor under the Will. Therefore, Mr. Jayant Gupta, son of late Shri Shiv Raj Gupta, having the right to sue or to be sued in his favour; he is accordingly directed to be impleaded in place of deceased Late Shri Shiv Raj Gupta.

9. The abovementioned applications are accordingly allowed.

10. Amended memo of parties be filed in terms of this order.

CS(OS) 106/2007, CS(OS) 1284/2002 & CS(OS) 1308/2002

1. List on 24th August, 2022.

NEENA BANSAL KRISHNA, J

MAY 25, 2022

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