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

+ **CS(OS) 285/2025**

BALRAJ TULI

.....Plaintiff

Through: Mr. Saumay Kapoor and Ms. Ritvika,
Advocates

versus

VINOD KUMAR TULI & ORS.

.....Defendants

Through: Mr. Sanyam Khetarpal and Ms. Lisa
Sankrit, Advocates for D-1 & D-2

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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07.05.2025

I.A. 11403/2025 (Under Order II Rule 2 CPC)

1. This is an application filed by the plaintiff under Order II Rule 2 of Code of Civil Procedure, 1908 ('CPC') seeking leave to sue defendant nos. 1 to 4 for other properties jointly owned by the plaintiff and the defendants.
2. Learned counsel for defendant nos. 1 and 2 states that it is a matter of record that there are several other properties, which were owned by late Sh. Banarsi Dass Tuli (father of the parties); and are currently jointly held by the parties. He states that the plaintiff ought to include all such jointly held properties in the present suit itself.
3. This Court has perused the plaint.
4. The dispute in this case pertaining to the suit property has peculiar factual matrix. It is not a simplicitor suit for partition based on inheritance.
5. The plaintiff in the suit has relied upon a relinquishment deed dated 21.05.2003, stated to have been executed by defendant nos. 2 to 4 in favour

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of the plaintiff and defendant no. 1, which was submitted to the Municipal Corporation of Delhi ('MCD') along with a Will dated 19.12.1985 and supporting affidavits, for the purposes of mutation of the suit property. On the basis of these documents, plaintiff and defendant no. 1 have exercised co-equal ownership rights in the suit property since the year 2003.

6. However, for the same property defendant nos. 2 to 4 have executed a registered relinquishment deed dated 14.06.2021 in favour of defendant no. 1. The plaintiff challenges this relinquishment deed as it creates a cloud on his title.

7. Thus, the facts pleaded in the plaintiff pertaining to the suit property are not in the nature of a simpliciter partition based on inheritance but involves adjudication of title rights of the plaintiff and challenge to documents executed by defendant nos. 1 to 4.

8. Whereas the relief of partition for the other properties of late Shri Banarasi Dass Tuli, wherein there is no title dispute would be needlessly delayed if tried with the present proceedings.

9. Therefore, this Court is satisfied that the claims of the plaintiff in the present suit should be tried independently and separately.

10. Accordingly, the leave sought is hereby granted and the application stands allowed.

CS(OS) 285/2025

11. This suit has been filed seeking declaration, partition, mandatory injunction, recovery of possession, arrears of rent and mesne profits in respect of property bearing No. 8, Satya Niketan, Moti Bagh, New Delhi-110021 (hereinafter "suit property")

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Court fee and Relief of possession

12. This Court has perused the plaint.
13. The relief claimed by the plaintiff for possession against defendant no. 5, who is stated to be the tenant in the suit property, cannot be prayed by way of mandatory injunction. The plaintiff is required to seek recovery of possession as the appropriate relief and pay appropriate court fee thereon.
14. Further, ad-valorem court fee is payable on the reliefs of declaration sought at prayers (a), (b), and (e) on the value assigned in the plaint. The payment of fixed court fee on the said reliefs is not in accordance with law (**Re: Suhrid Singh v. Randhir Singh and Others¹**).
15. The plaintiff will make good the deficient court fee within eight (8) weeks, failing which registry is directed to place this matter before the Court.
16. Let the plaint be registered as a suit.
17. Issue summons.

Summons to defendant nos. 1 and 2

18. Mr. Sanyam Khetarpal, learned counsel appears on behalf of the defendant nos. 1 and 2. He confirms the receipt of the suit paper-book and waives formal service of summons. He states that he will file his Vakalatnama within one (1) week.
19. Defendant nos. 1 and 2 shall file their written statement(s) within thirty (30) days. The said defendants shall also file affidavits of admission/denial of the documents filed by the plaintiffs, failing which the written statement(s) shall not be taken on record.
20. The plaintiffs are at liberty to file replication(s) thereto within thirty

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(30) days after filing of the written statement(s). The replication(s) shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendant, failing which the replications shall not be taken on record.

Summons to defendant nos. 3, 4 and 5

21. Upon steps being taken by the plaintiff, issue summons to the defendant nos. 3, 4 and 5 through all modes. Service upon defendant no. 3, who resides abroad will be affected through the concerned Ministry of Union of India. Affidavit of service be filed within two (2) weeks.

22. The summons shall indicate that the written statement(s) must be filed within thirty (30) days from the date of receipt of the summons. The defendants shall also file affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statement(s) shall not be taken on record.

23. The plaintiff is at liberty to file replication(s) thereto within thirty (30) days after filing of the written statement(s). The replication(s) shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendants, failing which the replication(s) shall not be taken on record.

24. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

25. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

26. List before the learned Joint Registrar for completion of service and pleadings, marking of exhibits and admission/denial of documents on **14.07.2025.**

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27. List before the Court on **23.09.2025**.

I.A. 11401/2025 (Under Order XXXIX Rule 1 and 2 CPC)

28. This is an application filed by the plaintiff under Order XXXIX Rule 1 and 2 CPC seeking directions to the defendants to maintain status quo with respect to the suit property.

29. This suit has been filed seeking reliefs qua the suit property i.e., property bearing No. 8, Satya Niketan, Moti Bagh, New Delhi-110021 (suit property).

30. It is stated in the plaint that the suit property was the personal property of late Sh. Banarsi Dass Tuli, who passed away on 04.11.1994, leaving behind his last Will and testament dated 19.12.1985, whereby the suit property was bequeathed to plaintiff and defendant no. 1 herein, to the exclusion of defendant nos. 2, 3 and 4. It is stated that, acting upon the said Will dated 19.12.1985, the plaintiff and defendant no. 1 filed an application to Municipal Corporation of Delhi ('MCD') for mutation of the suit property in their joint names.

31. It is stated that defendant nos. 2 to 4 had submitted their affidavits affirming the contents of the Will dated 19.12.1985 and the said affidavits recorded their 'No Objection' to the mutation in favour of plaintiff and defendant no. 1. Additionally, an indemnity bond was executed by the plaintiff and defendant no. 1 in favour of MCD, indemnifying the lessor, i.e., the President of India/MCD, for the purpose of effecting the mutation.

32. It is stated that pursuant to the Will dated 19.12.1985 and the supporting affidavits executed by defendant nos. 2 to 4 on 21.05.2003, the MCD mutated the suit property in the joint names of the plaintiff and defendant no. 1. Thereafter, both plaintiff and defendant no. 1 started

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exercising ownership rights as co-owners in equal shares.

33. It is stated that while the plaintiff occupies the third floor, defendant no. 1 occupies the second floor; the tenant (defendant no. 5) is occupying the ground and first floor. It is stated that from year 2013 to 31.12.2019, defendant no. 5 paid monthly rent [equally] to the plaintiff and defendant no. 1; however, thereafter, defendant no. 5 discontinued payment of rent to the plaintiff.

34. It is further stated that though basement was earlier occupied by defendant no. 5, it has since been vacated and possession given to the defendant no. 1.

35. It is further averred that the plaintiff has recently discovered that defendant nos. 2 to 4 have executed another relinquishment deed dated 14.06.2021 for the suit property in favour of defendant no. 1, in which it is falsely declared that late Sh. Banarsi Dass Tuli died intestate. It is stated that such recital is factually incorrect and contrary to the notarized affidavits and and relinquishment deed executed on 21.05.2003, which affirmed the existence of the Will dated 19.12.1985 and recorded their no objection to the mutation of the property in favour of the plaintiff and defendant no. 1.

36. Issue notice.

37. Learned counsel for defendant nos. 1 and 2 accepts notice.

38. Mr. Khetrapal, learned counsel for defendant nos. 1 and 2, who enters appearance on advance service, states that defendant no. 1 is aware about the MCD mutation order dated 27.05.2003. He, however, states that defendant no. 1 denies the execution of the alleged documents dated 21.05.2003; and he also relies upon the fact that the alleged relinquishment deed dated 21.05.2003 is unregistered.

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39. This Court has heard the submissions of the parties.
40. The mutation certificate dated 27.05.2003 issued by the MCD reads as under: -

“SLUM & J.J. DEPARTMENT
MUNICIPAL CORPORATION OF DELHI
LEASE & LIQUIDATION BRANCH

Room No. D-6
Vikas Kutiz, New Delhi

NO: F/LAB/1708/8/M.Bagh/35/0-120

Dated: 27.5.03

To,

Sh. Balraj Tuli and Sh. Vinod Kumar Tuli
Both sons of Late Sh. Banarai Dass Duli
R/o Plot No.8, Satya Niketan, Moti Bagh-II
J.J. Colony, New Delhi-110 021

Sub: MUTATION/TRANSFER OF PLOT NO. 8 AREA 91.67 SQ. YDS IN SATYA NIKETAN, MOTI BAGH-II J.J. COLONY, NEW DELHI. TRANSFER AFTER DEATH OF THE ORIGINAL ALLOTTEE/G.P.A. HOLDER

Sir,

With reference to your letter dated 13.1.2000 & 21.5.2003 on the subject cited above, **I am to inform you that consequent upon the death of your father Sh. Banarai Das Tuli S/o Late Sh. Tek Chand on 4.11.94 and on the basis of WILL executed by your father on dated 19.12.1985 in your names and other legal documents submitted by you and other legal heirs of the deceased allottee/GPA Holder of the Plot No. 8 Block NIL area 91.67 Sq. Yds in Satya Niketan/Moti Bagh-II, J.J. Colony, New Delhi-21 has been mutated/transferred in your names in the records of this office.**

The terms and conditions of allotment will remain the same as communicated to the original allottee at the time of allotment shall be binding upon you.

The abovesaid allotment now stands in the name of Sh. Balraj Tuli & Sh. Vinod Kumar Tuli both sons of Late Sh. Banarai Dass Tuli.

Please note that if it is discovered and found at any subsequent stage in future that this transfer has been obtained by misrepresentation/mis-statement or fraud means the mutation of the said plot shall be cancelled and you will be liable to pay compensation whatsoever. This is with the prior approval of DD-(L&L)-33.

Yours faithfully
Sd/-

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Asstt. Director (L&L)”
(Emphasis supplied)

41. The aforementioned mutation certificate categorically records that late Sh. Banarasi Das Tuli executed a Will dated 19.12.1985 and the mutation has been carried out in favour of plaintiff and defendant no. 1 relying upon the said Will. The mutation certificate also refers to submission of documents by the other legal heirs. The contents of mutation order corroborate the existence of the documents dated 21.05.2003 executed by defendant nos. 1 to 4, as placed on record by the plaintiff. Significantly, defendant no. 1 admits the aforesaid mutation certificate.

42. This Court, having perused the Will dated 19.12.1985 and the aforesaid mutation certificate dated 27.05.2003, is prima facie satisfied that the plaintiff has established a credible case of co-ownership to the extent of 50% in the suit property. It is also evident from the record that plaintiff and defendant no. 1 have after the year 2003 enjoyed the property as co-equal owners to the exclusion of defendant nos. 2 to 4.

43. The execution of the subsequent relinquishment deed dated 14.06.2021 by defendant nos. 2 to 4 in favour of defendant no. 1, reciting that Late Sh. Banarsi Dass Tuli died intestate, is prima facie incorrect; contrary to the public record and knowledge of the executants of the said documents. Defendant no.1 counsel's bare denial of the documents dated 21.05.2003 fails to impress this Court.

44. In view of the above, the operation of the relinquishment deed dated 14.06.2021 is hereby stayed, until the disposal of this application. Parties are directed to maintain status quo *qua* title and possession until the disposal of this application.

Directions to MCD

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45. In the peculiar facts of this case, where defendant no. 1 while relying upon the mutation certificate dated 27.05.2003, and admitting that acting upon the said mutation certificate, defendant no. 1 has been holding himself out as 50% owner of the suit property since the year 2003; however, is baldly denying knowledge of the documents which form the basis of the said mutation order, compels this Court to summon the record of MCD.

46. Accordingly, the concerned Assistant Director, L&L House Tax Department, is directed to produce the original file pertaining to the suit property, which led to the passing of the order dated 27.05.2003. The Assistant Director, L&L will place on record true copy of all documents received by MCD from the legal heirs for recording the mutation and transfer of the suit property in favour of the plaintiff and defendant no. 1. MCD will also produce documents pertaining to deposit of house tax between 2003-2020.

47. After the documents are received from the MCD, defendant nos. 2, 3 and 4 will remain personally present in Court on the next date of hearing for recording their statement under Order X CPC vis-à-vis the said documents.

48. Issue notice to the Mr. Tushar Sannu, standing Counsel, MCD for information and compliance of the aforesaid directions.

49. Issue notice to remaining defendants through all permissible modes.

50. Reply to the application be filed within four weeks. Rejoinder thereto, if any, be filed within three (3) weeks thereafter.

51. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be complied with within one (1) week from today.

52. List before the learned Joint Registrar for completion of service and pleadings on **14.07.2025**.

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53. List before the Court on **23.09.2025**.

I.A. 11402/2025 (Under Order XXXIX Rule 10 CPC)

54. This is an application filed by the plaintiff under Order XXXIX Rule 10 CPC, seeking a direction to defendant nos. 1 and 5 to deposit money in respect of the suit property.

55. Issue notice.

56. Mr. Khetarpal, learned counsel for defendant no. 1 accepts notice.

57. Upon steps being taken by the plaintiff, issue notice to defendant no. 5 through all permissible modes.

58. Let the reply be filed within a period of four (4) weeks.

59. Rejoinder thereto, if any, be filed within a period of four (4) weeks thereafter.

60. In view of the prima findings returned in I.A. 11401/2025, defendant no. 5 is directed to remit only 50% of the rent amount to defendant no. 1 w.e.f. 01.06.2025. With respect to the remaining 50% amount, defendant no. 5 will deposit the said amount with this Court within two (2) weeks. Similarly, for the following month of July, 2025, defendant no. 5 will deposit 50% rent with this Court. The GST amount on the entire rent will be remitted to defendant no. 1. The directions for TDS payable on the 50% rent deposited in Court will be issued on the next date of hearing.

61. This Court has been informed that defendant no. 5 was inducted as a tenant in the year 2013.

62. With the reply, defendant nos. 1 and 5 are directed to place on record all lease agreements executed for the suit property. Defendant no. 1 shall place on record all agreements pertaining to the suit property executed with defendant no. 5 and/or defendant no. 1. Defendant no. 5 shall place on

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record all documents forming basis of the payments made to plaintiff and defendant no. 5. Defendant no. 5 will place on record details of all payments made to defendant no. 1 since 01.01.2021 till 31.05.2025.

63. List before the learned Joint Registrar for completion of service and pleadings on **14.07.2025**.

64. List before the Court on **23.09.2025**.

65. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MAY 7, 2025/rhc/akp

MANMEET PRITAM SINGH ARORA, J

[Click here to check corrigendum, if any](#)

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