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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 819/2007

NAGENDRA VASHISHT

.....Plaintiff

Through: Plaintiff in person

versus

BHAGWAT SAWROOP SHARMA & ORS.

.....Defendants

Through: Mr. Parvez Bashista, Adv. For

LRs of D-2

CORAM:

JOINT REGISTRAR (JUDICIAL) MS. PRIYA MAHENDRA, (DHJS)

ORDER

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05.03.2025

I.A.No.5644/2017 (under Order I Rule 10 CPC filed on behalf of the plaintiff seeking deletion of defendant nos.4 to 7 & 11 to 13 from the array of parties)

1. Pleadings qua defendant no.1 to 3 & 7 are already complete.

2. Further, Vide order dated 02.11.2023, learned counsel for the LR's of defendant no.4 and 8 had stated that he does not want to file any reply to the captioned IA.

3. Vide order dated 24.01.2024, the right of defendant no.6 to file reply was ordered to be closed. Further, the order dated 24.01.2024 records that the suit already stands abated against defendant no.5.

4. The order dated 20.03.2018 also reflects that learned counsels for defendant no.9,10 and 11 to 13 have stated that they have no objection, if captioned IA is allowed.

5. As per office note, fresh Amended Memo of Parties filed by the plaintiff is on record.

6. Learned counsel for LR's of deceased defendant no.2/Sh. Anand Kr. Sharma is present and submits that he has filed his Vakalatnama on behalf of LR's of deceased defendant no.2 vide diary no.1579626/2025. However, no



such Vakalatnama filed on behalf of LRs of deceased defendant no.2 is on record. So, learned counsel for LRs of deceased defendant no.2 is directed to take requisite steps to bring his Vakalatnama on record. He submits that he has no objection, if captioned IA is allowed.

7. It is stated in the captioned IA that the plaintiff is the grandson of Sh. Yad Ram Sharma. He has filed the present suit seeking partition, declaration and permanent injunction against the defendants. It is further stated that the defendant no.4 to 7 are the daughters of Sh. Yad Ram Sharma and defendant no.11 to 13 are the sisters of the plaintiff. The plaintiff submits that the defendant no.4 to 7 and defendant no.11 to 13 have no legal rights in the ancestral property left by late Sh. Yad Ram Sharma, and Section 6 of Hindu Succession Act giving full right to the daughters in the ancestral properties does not apply in the present matter as Sh. Yad Ram Sharma admittedly died before the amendment to Section 6 of Hindu Succession Act in the year 2005. The plaintiff relies on the judgement in “*Prakash & Ors. Versus Phulwati & Ors. in Civil Appeal No.7217 of 2013*” in support of his submission. He further submits that in the reply filed to the captioned IA, the defendant no.1 to 3 and defendant no.7 have conceded to the captioned IA. Further, no other defendant has contested the captioned IA. He seeks sometime to file the said judgement i.e. *Prakash & Ors. (supra)* on record. The same be filed within four weeks with copy to the opposite side.

8. However, at this stage, it is found that the reply filed by defendant no.7 reflects that the plaintiff and his father



have earlier filed a probate petition no.54/89 seeking probate of Will of late Sh. Yad Ram Sharma which was rejected due to lack of evidence in support of the alleged Will. Moreover, the plaintiff has also filed further declaration in prayer (a) for declaring the suit properties left by his grandfather Sh. Yad Ram Sharma as joint Hindu Family Properties. So, prima facie it appears that whether the suit properties are ancestral properties is a matter of trial. The same is denied by the plaintiff. In view of aforesaid gamut of facts & circumstances, the plaintiff is directed to file Short Written Synopsis alongwith supporting case laws/judgements within four weeks with copy to the opposite side.

9. At request of the plaintiff, re-notify the captioned IA for consideration on 07.05.2025.

**PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)**

MARCH 5, 2025/ab

Click here to check corrigendum, if any