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

+ **CS(OS) 300/2025**

NEELAM SHARMA & ANR.

.....Plaintiffs

Through: Mr. D. V. Khatri and Mr. Harshad
Gupta, Advocates

versus

MS. SHRUTI CHOPRA & ORS.

.....Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **13.05.2025**

I.A. 12036/2025 (for exemption)

1. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing
2. The application for exemption is allowed, subject to the plaintiff granting inspection of the original of the documents filed, as and when required to do so, or filing the original documents at the stage of admission/denial.
3. The application stands disposed of.

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4. The present suit has been filed seeking partition of the property bearing no.628, measuring 80 sq yds. consisting of first floor, second floor, third floor with roof rights situated at Bhai Parmanand Colony, Delhi-110009 ('suit property') between plaintiffs and defendants by metes and bounds and rendition of accounts by defendants in respect of the income/rent



received from the tenants for the suit property. In addition, plaintiffs also seek a decree for permanent injunction restraining the defendants from carrying out any illegal and unauthorised construction, selling, transferring and creating any third-party interest and parting with possession of the suit property.

5. In the facts of this case, it is admitted that plaintiffs are not in possession of the suit property and have been ousted. This is also evident from the relief at prayer clause 'ii' of the plaint. The plaintiffs are accordingly directed to pay ad-valorem Court Fees for their 1/4th share each on the valuation of the suit property determined at paragraph '18' of the plaint.

6. Learned counsel for the plaintiffs seeks two weeks' time to deposit the court fees. Let the Court fees be deposited within two (2) weeks, failing which, the plaint shall stand rejected.

7. Let the plaint be registered as a suit.

8. Summons be issued to the defendants by all permissible modes on filing of process fee. Affidavit of service be filed within two weeks.

9. The summons shall indicate that the written statement(s) must be filed within thirty days from the date of receipt of the summons. The defendants shall also file affidavit(s) of admission/denial of the documents filed by the plaintiff,

10. Liberty is given to the Plaintiff to file replication(s) thereto within thirty days of the receipt of the written statement(s). The replication(s) shall be accompanied by affidavit(s) of admission/denial in respect of the documents filed by the defendants, failing which the replication(s) shall not be taken on record.



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

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

13. List before the learned Joint Registrar for completion of service and pleadings, marking of exhibits and admission/denial of documents on **21.07.2025**.

14. List before the Court on **26.09.2025**.

I.A. 12035/2025 (Under Order XXXIX Rule 1 and 2 CPC by plaintiffs)

15. This is an application filed by the plaintiffs under Order XXXIX Rule 1 and 2 of Code of Civil Procedure, 1908 ('CPC') seeking ex-parte ad interim injunction restraining the defendants from carrying out any illegal and unauthorised construction, selling, transferring and creating any third-party interest in the suit property.

16. Learned counsel for the plaintiffs' states that the plaintiffs along with defendant no. 3 are the children of late Sh. Ram Chand and Smt. Darshana.

16.1 He states that defendant nos. 1 and 2 are the children of the pre-deceased brother of Sh. Ved Prakash.

16.2 He states that plaintiff nos. 1 and 2 are entitled to 1/4th share each in the suit property.

16.3 He states that though late Sh. Ved Prakash and defendant no. 3 had propounded a Will dated 30.09.2004 in respect of the suit property and filed a probate case with respect to the said Will, however, the probate petition has been dismissed by District Judge, Rohini Courts, Delhi vide judgment dated 10.09.2024 holding that the due execution of the Will could not be proved.



16.4 He states that in these facts; the plaintiffs herein are entitled to partition of the suit property by metes and bounds.

16.5 He states that there is no dispute that suit property belongs to late Sh. Ram Chand. He states that whereas the ground floor of the suit property was disposed of by late Sh. Ram Chand during his life time, however, the first floor, second floor, third floor along with the terrace above the third-floor forms part of the estate of late Sh. Ram Chand.

16.6 He states that the suit property is in actual physical possession of defendant no. 3 and he is collecting rent from the tenant(s), since he has let out certain portions of the suit property.

17. On a prima facie consideration of aforesaid facts and materials placed on record, this Court is of the opinion that the plaintiffs have made out a prima facie case, more so, in view of the judgment dated 10.09.2024 passed by the District Judge, Rohini Courts, Delhi. The balance of convenience lies in favour of the plaintiffs, and there is likelihood of irreparable injury being caused to the plaintiffs.

18. Accordingly, until the next date of hearing, defendants are directed to maintain status quo *qua* title and possession of the suit property.

19. It is, however, clarified that defendant no. 3 will be entitled to continue to let out the portions of the suit property to the tenants, subject to all letting out to the tenants being under the written lease agreements and rent received through cheque only. The lease agreements are directed to be filed with the pleadings.

20. Further defendant nos. 1, 2 and 3 will also make a full disclosure of all the existing rental agreements as well as the details of the rent collected from the tenants of the suit property for the past three (3) years.



21. Reply to the application be filed within four (4) weeks. Rejoinder thereto, if any, be filed within three (3) weeks thereafter.
22. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be complied with within one (1) week from today.
23. List before the learned Joint Registrar for completion of service and pleadings, marking of exhibits and admission/denial of documents on **21.07.2025**.
24. List before the Court on **26.09.2025**.
25. 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 13, 2025/rhc/ms

MANMEET PRITAM SINGH ARORA, J

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