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

+ **CS(OS) 419/2024**

SUNITA KUMARI & ANR.

..... Plaintiffs

Through: Mr. Jaydeep Sharma, Mr. Kaushal
Kapoor, Mr. Rajiv Tiwari, Advs.

versus

DEEPA RANI & ORS.

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

20.05.2024

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CS(OS) 419/2024

1. The present suit has been filed for partition and mandatory injunction with the following prayer:

“(a) pass a Preliminary Decree of Partition in respect of the Suit Property mentioned in the Plaint, in favor of the Plaintiffs and against the Defendant No. 1 & 2, allotting to the Plaintiffs and the Defendant No. 1 & 2 their respective shares each in the Suit Property as described in the Plaint;

(b) pass a final decree of partition by metes and bounds in respect of the Suit Property mentioned in the schedule annexed to the Plaint, in favor of the Plaintiffs and against the Defendant No. 1 & 2, allotting the Plaintiff and the Defendant No. 1 & 2, their respective shares in the suit Property as described in the Plaint;

or



pass a final decree in favor of the Plaintiff and against the Defendant No. 1 & 2, separating their respective shares in the Suit Property as described in the Plaint by way of any other mode provided under the law applicable in the matters pertaining to partition;

(c) pass a decree of mandatory injunction directing the Defendants to disclose of details of the movable assets of the Deceased and distribute the same in four equal shares amongst Plaintiff and the Defendant No. 1 & 2.

(d) award costs of the suit to the Plaintiffs;

(e) pass any other order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. Let the plaint be registered as suit.
3. Summons be issued to the defendants by all permissible modes, which shall indicate that the written statements must be filed within thirty days from the date of receipt of the summons.
4. The defendants are directed to file affidavit of admission/denial against the documents filed by the plaintiff, failing which the written statement shall not be taken on record.
5. The plaintiff is at liberty to file replications thereto within fifteen days of filing of the written statements, which shall be accompanied by affidavits of admission/denial, in respect of the documents filed by the defendants, failing which the replications shall not be taken on record.
6. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.
7. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.



8. List before the Joint Registrar (Judicial) on 25.07.2024.

I.A. 29585/2024

9. The present application has been filed on behalf of the plaintiff/applicant under Order XXXIX Rules 1 & 2 read with Section 151 CPC for seeking injunction against the defendants with the following prayer:

“a) allow this application and pass an ad interim exparte injunction against the Defendants restraining the Defendants from creating any third party interests over the suit property in any manner whatsoever and to maintain status quo during the pendency of the present suit;

b) direct the Defendants to disclose details of the movable assets currently in possession of the Defendant including the rent received from Suit property & the title deed of the Suit property and deposit the same in this Hon'ble Court;

c) Pass/make such other appropriate orders and or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present application.”

10. Learned counsel for the plaintiff submits that Mrs. Bhageswari Devi, mother of plaintiffs and defendant Nos. 1 and 2 died on 22.04.2024. The deceased Mrs. Bhageswari Devi was the registered owner of the suit property bearing No. H.No. WB-109-B, Gali No.5, Ganesh Nagar, Shakarpur, Delhi-110092 which is a built up property having ground, first, second and third floors.
11. Learned counsel for the plaintiffs submits that the plaintiffs are permanent residents of Netherlands. It has been submitted that by virtue of a registered will dated 04.12.2017, the ground floor has been bequeathed to Plaintiff No.2; First Floor to Plaintiff No.1; Second Floor to Defendant No. 1 and Third Floor to Defendant No.2.



12. However, learned counsel submits that there is an apprehension that the defendants may create third party interest.
13. Issue notice to the defendants through all permissible modes.
14. In view of the will left by the deceased who was the registered owner of the suit property, the parties are directed to maintain status quo in terms of the nature, title, character and possession of the suit property till the next date of hearing.
15. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 be complied with within one week.
16. List before Joint Registrar (Judicial) on 25.07.2024.

DINESH KUMAR SHARMA, J

MAY 20, 2024/AR..