



\$~20 to 22

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

+ CS(OS) 460/2021, CCP(O) 37/2022 CCP(O) 51/2022, CRL.M.A.
20148/2021, I.A. 14308/2021, 15788/2021
SUMAN SAWHNEY & ORS. Plaintiff

Through: Mr. Naveen Kumar Chaudhary,
Advocate.
Mr. Rajiv Verma, Mr. Dheeraj
Sharma, Ms. Anchal Uppal,
Advocates.

versus

PANKAJ SAWHNEY Defendant

Through: Mr. M.S. Khan Mr. M Arshyan, Ms.
Neha Shaziya, Advocates.

+ CS(OS) 121/2023, CC 6/2023
SH. PANKAJ SAWHNEY Plaintiff

Through: Mr. M.S. Khan Mr. M Arshyan, Ms.
Neha Shaziya, Advocates.

versus

SMT. SUMAN SAWHNEY AND OTHERS.... Defendant

Through: Mr. Rajiv Verma, Mr. Dheeraj
Sharma, Ms. Anchal Uppal,
Advocates.

+ CS(OS) 466/2023, I.A. 14715/2023, 14716/2023, 14717/2023
CHANDER KANTA SETHI AND ORS Plaintiff

Through: Mr. Naveen Kumar Chaudhary,
Advocate.

versus

PANKAJ SAWHNEY Defendant

Through: Mr. Rajiv Verma, Mr. Dheeraj
Sharma, Ms. Anchal Uppal,
Advocates.



CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
% **09.04.2024**
CRL.M.A. 20148/2021 (U/S 340 CrPC)

1. The present application has been filed under Section 340 Cr.P.C for initiation of criminal proceedings by the defendant against the plaintiff for making a false statement in plaint before this court accompanied by sworn affidavit and for filing forged documents before this court.
2. Learned counsel for the defendant submits that the plaintiff has made a false statement before this court regarding the earlier filing of the suit CS(OS) 121/2023 and CS(OS) 466/2023.
3. Learned counsel submits that the plaintiff made a false statement that no suit regarding the suit property is pending before this court.
4. The bare perusal of Section 340 makes it clear that in order to proceed under Section 340 Cr.P.C, the Court has to frame an opinion that it is expedient in the interest of justice that an inquiry is required to be made and such opinion is in respect of a document produced or given as an evidence in the court.
5. The court is still at the stage of trial and therefore the present application is adjourned sine die and to be taken up after the present suit is decided. The applicant may take appropriate steps for the restoration of the application.

I.A. 14308/2021 (under Order I R 10 CPC)

6. The application has been moved by Ms. Chander Kanta Sethi, Ms. Madhu Goyal and Ms. Manju Suri for impleading themselves as parties.



7. Briefly stated the facts are that Late Sh.Bansi Lal Sahni, father of Mr. Pankaj Sahni, husband of plaintiff no.1 i.e. father of defendant Pankaj Sahni, father-in-law of defendant no.1 Ms. Suman Sahni and the present applicant Ms. Chander Kanta Sethi, Ms. Madhu Goyal and Ms. Manju Suri, died leaving behind two properties namely 299 Ambika Vihar, New Delhi-110087 and 7726-28, Ward No.XV, Gopal Bhawan, Ram Nagar, Paharganj, Delhi-110055 (flat No.1 and 3).

8. The case of the plaintiff is that earlier a will was executed by Lt. Sh. Bansi Lal Sahni in 1997 vide which both the properties were bequeathed by Late Sh. Bansi Lal Sahni in favour of both his sons namely Mr. Pankaj Sahni and Parmod Sahni, however, this will was revoked by the last will dated 10.06.2002, and vide this will only property bearing no 299 Ambika Vihar, New Delhi-110087 was bequeathed in favour of Mr. Pankaj Sahni and Parmod Sahni.

9. The case of the plaintiff further is the property 7726-28, Ward No.XV, Gopal Bhawan, Ram Nagar, Paharganj, is jointly owned by the husband of plaintiff no.1 and defendant no.1 Pankaj Sahni, therefore both the properties are liable to be partitioned.

10. Learned counsel for the plaintiff has also submitted that one of the applicant Ms. Manju Suri, was even an attesting witness on the will dated 10.06.2002.

11. The case of the applicants are that they being the legal heirs of late Sh. Bansi Lal Sahni are the necessary and proper party in the present case.

12. Learned counsel for the applicant submits that it is also pertinent to mention here that the applicants had earlier filed a suit CS(OS) 466/2023 on 10.09.2021 which was registered as a civil suit on 15.09.2021 against Mr.



Pankaj Sahni, Ms. Suman Sahni and children of Ms. Suman Sahni and Parmod Sahni. Learned counsel submits that therefore they are necessary parties.

13. Learned counsel for the plaintiff has opposed the application on the ground that there are two properties i.e. 299 Ambika Vihar, New Delhi-110087, and 7726-28, Ward No.XV, Gopal Bhawan, Ram Nagar, Paharganj, Delhi-110055 (flat No.1 and 3). It has been submitted that the Ambika Vihar property has been bequeathed by late sh. Bansi Lal Sahni, in favour of Sh. Pramod Sahni, husband of plaintiff no.1 and Sh. Pankaj Sahni, and therefore the applicant have no right title or interest in the said property.

14. It has further been submitted that the Ram Nagar, Paharganj, Delhi-110055 (flat No.1 and 3) property was purchased by Sh. Pankaj Sahni and Mr. Parmod Sahni and therefore the applicants have no right.

15. Learned counsel for the plaintiff has also submitted that though CS(OS) 466/2023 (new number) Chander Kanta Sethi and others vs. Pankaj Sahni Was filed on 10.09.2021 and registered on 15.09.2021 but the summons were issued later. However, the CS(OS) 460/2021 was filed on 13.09.2021 and at that time the plaintiff was not aware.

16. Learned counsel for the applicant submitted that even otherwise the present suit is not maintainable and is liable to be stayed in view of section 10 of the CPC as the present suit was instituted subsequently.

17. Order I Rule X sub-rule (ii) provides that the court may at any stage of proceeding at the name of any person who ought to have joined or who is present before the court is necessary to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the suit. It is a matter of record that the applicant had earlier filed a civil Suit i.e.



CS(OS) 466/2023 initially before the District Court which was later on transferred to this court regarding the Ambika Vihar property which is the subject matter in this present suit.

18. Therefore, I consider that presence of the applicants is necessary for the effective adjudication of the present application.

19. Hence the present application is allowed and disposed of.

20. Let the amended memo of parties be filed.

I.A.4937/2022 & 8377/2022 & 9200/2022, 21476/2023,

21. Learned counsels seek permission to withdraw the present applications with the liberty to move an appropriate application at an appropriate stage.

22. Liberty granted.

23. Applications stand dismissed as withdrawn.

I.A.15788/2021 in CS(OS) 460/2021

24. This is an application on behalf of the defendants under Section 10 of CPC for the stay of the proceedings. Learned counsel submits that CS(OS) 121/2023 (new number after transfer from the District Court) titled “*Sh. Pankaj Sawhney vs. Smt. Suman Sawhney and Ors.*” and CS(OS) 460/2021 titled “*Suman Sawhney & Ors. vs Pankaj Sawhney*” were filed prior to the suit bearing no CS(OS)466/2023. Therefore this suit is liable to be stayed in view of the section 10 of the CPC.

25. Newly impleaded defendants seek time to file the reply.

26. Let the reply be filed within two weeks with an advance copy supplied to the other parties.

27. List on 01.05.2024 before the Joint Registrar (Judicial) for admission/denial.



CCP(O) 37/2022 CCP(O) 51/2022

28. Learned counsel for the defendant submits that the present CCP(O)s may be adjourned Sine die with the liberty to restore the same if required.

I.A. 17292/2023 in CS(OS) 121/2023

29. The present application has been filed on behalf of the defendant for passing a preliminary decree for the partition of property bearing 7726, Ram Nagar, Paharganj, Delhi.

30. Learned counsel for the defendant submits that it has been admitted by the defendant in their written statement that property 7726-28 Ward No.XV, Gopal Bhawan, Ram Nagar, Paharganj, Delhi-110055 was purchased by deceased Parmod Sahni and the plaintiff herein, jointly by them in their names.

31. Learned counsel submits that it has also been submitted in the written statement that this property is liable to be divided between the LRs of deceased Parmod Sawhney i.e. the defendants and Pankaj Sawhney i.e., the plaintiff equally in two shares. Learned counsel submits that therefore preliminary decree for partition of property no. 7726-28 Ward No.XV, Gopal Bhawan, Ram Nagar, Paharganj, Delhi-110055 may be passed ascertaining the 50 percent share of the plaintiff and the defendants. Learned counsel for the plaintiff has submitted that there is no dispute as to the fact that the plaintiff and the defendants i.e., LRs of deceased Parmod Sawhney have 50 per cent share each in property no. 7726-28 Ward No.XV, Gopal Bhawan, Ram Nagar, Paharganj, Delhi-110055. In view of the admission of the defendant, a preliminary decree is passed to the effect that the plaintiff and the defendants are entitled to an undivided 50 percent share each in property no. 7726-28 Ward No.XV, Gopal Bhawan, Ram Nagar, Paharganj,



Delhi-110055. The parties are directed to take appropriate steps accordingly.

32. Application stands disposed of.

I.A. 5531/2024

33. Learned counsel has submitted that he does not wish to press this application in view of the heavy board.

Dismissed as withdrawn.

**CS(OS) 460/2021, CS(OS) 121/2023, CC 6/2023 & CS(OS) 466/2023,
I.A.14715/2023, I.A.14716, I.A.14717/2023, I.A.21475/2023**

34. List before the court on 04.09.2024.

DINESH KUMAR SHARMA, J

APRIL 9, 2024/K/ht.