

\$~22

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

+ **CS(OS) 364/2019**

GEETA MEHTA & ANR.

..... Plaintiffs

Through: Ms. Aakanksha Bansal, Adv.

versus

ANIL MEHTA & ANR.

.... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **23.07.2019**

I.A. 9779/2019 (exemption)

1. Exemption allowed subject to all just exceptions.

CS(OS) 364/2019

2. Let the plaint be registered as a suit.

3. Issue summons to the Defendants through all modes upon filing of Process Fee.

4. The summons to the Defendants shall indicate that a written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.

5. Liberty is given to the Plaintiffs to file a replication within 15 days of the receipt of the written statement. Along with the replication, if any, filed by the Plaintiffs, an affidavit of admission/denial of documents of the

Defendant, be filed by the Plaintiff, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

6. List before the Joint Registrar for marking of exhibits on 27th September, 2019. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

I.A. 9780/2019 (application under Order 39 Rule 1 & 2 CPC)

7. The present Suit is for partition and permanent injunction. Plaintiff No. 1 is the widow of Late Sh. Rajeev Mehta and Plaintiff No.2 is his son. As per the plaint, all the suit properties described in Schedule-I accompanying the plaint were the separate properties of Late Sh. Ram Swarup Mehta. Late Sh. Ram Swarup Mehta died on 30th January, 1974 and the properties devolved on his widow Late Smt. Bimla Mehta, mother of Mr. Anil Mehta (Defendant No.1), Ms. Renu Sood (Defendant No.2) and Late Mr. Rajeev Mehta (husband of Plaintiff No.1) in equal share. It is also averred that late Smt. Bimla Mehta left behind a Will bequeathing her 1/4th undivided share equally in favor of Mr. Anil Mehta and late Sh. Mr. Rajeev Mehta.

8. Learned counsel submits that the share of late Sh. Rajeev Mehta, on his death devolved on the Plaintiffs. By way of the present suit, partition has been sought in respect of the share of Late Sh. Rajeev Mehta.

9. Learned counsel for the Plaintiff contends that Defendant has threatened to sell the suit properties to the exclusion of Plaintiffs and serious prejudice to the Plaintiff in case the Defendant succeeds to do so.

10. The Court is satisfied that the Plaintiff, have made a prima facie case. The balance of convenience also lies in favour of the Plaintiff. Irreparable loss and injury would be caused, in case, Defendants are not restrained by

way of *ex-parte* injunction. Accordingly, till the next date of hearing, Defendants are restrained from selling, alienating/create any third party interest in the suit properties described in Schedule-I of the Plaint.

11. Compliance of Order 39 Rule 3 be complied within the period of five days from today.

12. Application stands disposed of in above terms.

13. Copy of this order be given *dasti* under signatures of the Court Master.

SANJEEV NARULA, J

JULY 23, 2019

Pallavi