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

+ **CS(OS) 372/2020**

I.A.10975/2020 (under Order XXXIX Rule 1 and 2 CPC)

I.A.10976/2020 (exemption)

SHRI VIJAY SETHI

..... Plaintiff

Represented by: **Mr.Bhagbati Prasad Padhy, Advocate.**

versus

SHRI ANIL SETHI & ORS.

..... Defendant

Represented by: **None.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **25.11.2020**

The hearing has been conducted through video conferencing.

I.A.10976/2020 (exemption)

1. Exemption allowed subject to just exceptions. Original documents, if any, be filed within four weeks.
2. Application is disposed of.

CS(OS) 372/2020

I.A. 10975/2020 (under Order XXXIX Rule 1 and 2 CPC)

1. Complaint be registered as a suit.
2. Issue summons in the suit and notice in the application to the defendants on the plaintiff taking steps through Email, SMS, Whatsapp, Speed Post and Courier, returnable before the learned Joint Registrar for completion of service, pleadings and admission-denial of documents on 18th January, 2021.



3. On receipt of summons and notice, written statements to the suit and reply affidavits to the application along with the affidavits of admission-denial will be filed within thirty days. Replication and rejoinder affidavit along with the affidavit of admission-denial within three weeks thereafter.

4. List the suit and application before Court on 27th April, 2021.

5. By the present suit, the plaintiff who has impleaded his brothers as defendant Nos. 1, 2 and 3 and two sisters as defendant Nos. 4 and 5 respectively, seeks a decree of partition and permanent injunction in respect of the suit property i.e. Plot No. F-10/9, Model Town-II, Delhi-110009. According to the plaintiff, the suit property was purchased by the father of the parties on 2nd September, 1964 and he got constructed two floors on the suit property. Father of the parties died intestate on 22nd November, 2000, whereafter, the property devolved on the plaintiff, defendants and their mother in the ratio of 1/7th share each. On the insistence of defendant No. 2 and for the better management of the property, so that the property tax could be properly paid, the parties agreed that mutation be carried out in the name of Smt. Raj Rani Sethi, mother of the parties and consequently, power of attorneys were issued relinquishing their respective shares of 1/7th each vide the relinquishment deed dated 16th September, 2003 in favour of Smt. Raj Rani Sethi. However, defendant No. 1, 3 and 4 did not relinquish their shares in favour of their mother.

6. Smt. Raj Rani Sethi passed away in 2013 leaving behind a registered Will dated 29th May, 2007 bequeathing her 3/7th shares in the suit property which were earlier relinquished in her favour by the plaintiff, defendant Nos. 2 and 5, in favour of the plaintiff, defendant Nos. 2 and 5 1/7th share each and her own 1/7th share equally distributing in favour of daughter of



defendant No. 5 and son of defendant No. 2. Based on these averments, the plaintiff claims to be co-sharer in the suit property and seeks partition and injunction.

7. Considering the averments in the plaint as also the documents filed therewith, this Court finds that it is necessary to preserve the suit property pending decision in the application. Consequently, till the next date of hearing before this Court, parties are directed to maintain status quo as to the title and possession and will not create any third party rights in the suit property.

8. Compliance under Order XXXIX Rule 3 CPC be done within one week.

9. Copy of the order be uploaded on the website of this Court.

MUKTA GUPTA, J.

NOVEMBER 25, 2020
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