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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 393/2020**

AMITA KISHORE MANSUKHANI Plaintiff
Through: **Mr. Ankit Jain, Advocate.**

versus

VIKRAM KRISHNA & ORS. Defendants
Through: **Mr. Jai Sahai Endlaw with Mr. Ashutosh R., Advocates for D-1.**
Mr. Siddhant Nath, Advocate for D-2.
Mr. Sanyat Lodha, Advocate for D-4.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

ORDER
% **28.03.2022**

I.A. No.11549/2020 (u/O.XXXIX R.1 & 2 of CPC), I.A. No.14230/2021 (of the defendant no.4 u/O.XXXIX R.4 of CPC) & I.A. No.14284/2021 (of the defendant no.3 u/O.XXXIX R.4 of CPC)

1. I.A. No.14230/2021 has been filed on behalf of the defendant no.4, seeking vacation/modification of the order dated 7th December, 2020 passed by this Court to the extent permitting the defendant no.4 to execute the proper conveyance document to confer her rights in the Green Woods Farm at M.G. Road, Chattarpur, Mehrauli, New Delhi admeasuring 20 bighas and 6 biswas bearing khasra Nos. 74/24/2, 76/10, 77/3/2, 77/4, 77/7, 77/8/1, 77/13/2, 77/14, 77/17, 77/6 (hereinafter referred to as the 'Green Woods Farm Property') in favour of the defendant no.1.
2. I.A. No.14284/2021 has been filed on behalf of the defendant no.2,



seeking vacation/modification of the order dated 7th December, 2020 passed by this Court to the extent permitting the defendant no.2 to execute the proper conveyance document to confer her rights in Green Woods Farm Property in favour of the defendant no.1.

3. Notice in the aforesaid applications was issued on 29th October, 2021 and the plaintiff was given liberty to file reply. Further opportunity to file reply was given on 7th December, 2021.

4. Till date, no reply has been filed on behalf of the plaintiff.

5. The counsel for the plaintiff seeks further time to file replies, which is vehemently opposed by the counsels for the defendants.

6. This Court vide order dated 7th December, 2020 has passed an *ex parte* order in the following terms:-

“5. The present suit has been filed by the plaintiff impleading her brother, the two sisters and the mother as defendant No. 1, defendant Nos. 2 & 3 and defendant No. 4 respectively, inter alia, seeking a decree of partition, permanent injunction and rendition of accounts in respect of her share in the HUF properties. Case of the plaintiff is that the plaintiff was born on 26th April, 1958 and became a coparcener in Col. Jai Krishna HUF in accordance with the Hindu Succession Act, 2005. In respect of the immoveable suit property i.e. Green Woods Farm at M.G. Road, Chattarpur, Mehrauli, New Delhi admeasuring 20 bighas and 6 biswas bearing khasra Nos. 74/24/2, 76/10, 77/3/2, 77/4, 77/7, 77/8/1, 77/13/2, 77/14, 77/17, 77/6, plaintiff claims that since Col. Jai Krishna passed away on 22nd August, 2002 leaving behind his Will dated 4th May, 2002, whereby, he bequeathed all his assets in faovur of his wife- defendant No. 4, the share of the father would devolve on the mother, consequently, on the partition of the HUF property, the mother would be entitled to 2/6th share, however, the plaintiff would be entitled to 1/6th share in terms of the decision of the Supreme Court reported as 2020 SCC Online SC 641 Vineeta Sharma Vs. Rakesh Sharma.



6. *Considering the claim of the plaintiff and that the suit property is required to be preserved pending decision in the application, parties are directed to maintain status quo as to the title and possession in respect of the suit property and no third party rights will be created therein till the next date of hearing before this Court.*”

7. The case of the plaintiff is that the Green Woods Farm Property is a HUF property. Whereas, on behalf of the defendants no.2 and 4, it has been pleaded in the written statements that the Green Woods Farm Property is absolutely the independent property of the defendant no.4 and the same was never a part of the HUF.

8. As per the plaintiff’s own case, the plaintiff’s entitlement in the Green Woods Farm Property is only to the extent of 1/6th share, whereas 2/6th share in the Green Woods Farm Property belongs to the defendant no.4 and the remaining 1/6th shares each belong to the defendants no.1, 2 and 3.

9. As per the plaintiff’s own case, 4/6th share in the Green Woods Farm Property belongs to the defendants no.1, 2 and 4 jointly. Further, by way of the present application, the defendants no.1, 2 and 4 are *inter se* transferring the shares in the Green Woods Farm Property and such intended transfer is not in respect of a third party. Thus, I am inclined to modify the order dated 7th December, 2020 to the extent permitting the defendants no.2 and 4 to execute the proper conveyance documents in favour of the defendant no.1.

10. However, this would be subject to the condition that the defendant no.1 shall not create any third party rights in the Green Woods Farm Property and *status quo* with regard to possession shall be maintained in the Green Woods Farm Property.



11. The aforesaid order shall be subject to the final adjudication of the suit and the defendant no.1 shall not claim any equities based on the order passed today.

12. Needless to state, any observations made herein are only for deciding I.A. No.14230/2021 and I.A. No.14284/2021.

13. Accordingly, I.A. No.14230/2021 and I.A. No.14284/2021 stand disposed of in above terms.

14. List I.A. No.11549/2020 on 6th May, 2022.

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15. List for framing of issues on 6th May, 2022.

AMIT BANSAL, J.

MARCH 28, 2022

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