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

+ **CS(OS) 368/2025**

MR. SUNIL DUBEY

.....Plaintiff

Through: Mr. Yash Srivastava, Advocate.

versus

MR. ANIL DUBEY & ANR.

.....Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

28.05.2025

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CS(OS) 368/2025

1. Let plaint be registered as a suit.
2. Upon filing of process fee, issue summons to the Defendants, through all permissible modes, returnable on 01.09.2025 before the Joint Registrar.
3. Written statement shall be filed by the Defendants within 30 days from the receipt of summons along with affidavit of admission/denial of the documents filed by the Plaintiff.
4. It is open to the Plaintiff to file replication within 30 days from receipt of the written statement along with affidavit of admission/denial of documents filed by the Defendants.
5. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.
6. If any of the parties wish to seek inspection of any documents, the same be done in accordance with Delhi High Court (Original Side) Rules,



2018.

7. List before the learned Joint Registrar for completion of service and pleadings, marking of exhibits and admission/denial of documents on 01.09.2025.

I.A. 13794/2025

8. This application is preferred on behalf of the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 CPC, 1908 *inter alia* seeking *ad interim ex parte* injunction restraining Defendant No. 1 from in any manner selling, transferring, alienating, parting with possession or encumbering the immovable and movable assets detailed in paragraph 4 of the application.

9. Issue notice to the Defendants, through all permissible modes, returnable before Court on 18.08.2025.

10. It is the case of the Plaintiff that late Shri Vidya Prasad Dubey, father of the parties herein died intestate on 28.03.2007 and all movable and immovable assets devolved on the Class-I legal heirs i.e., late Smt. Kamla Dubey, Shri Anil Dubey, Shri Naveen Dubey and the Plaintiff, each having 1/4th share in the assets. During her lifetime, Smt. Kamla Dubey executed a Will registered with Sub-Registrar Gorakhpur, Uttar Pradesh on 07.06.2019, whereby she bequeathed all her assets among her sons in equal proportion. She passed away on 21.04.2021 and resultantly, after her death the Plaintiff and his two brothers became entitled to 1/3rd share each in the assets, which includes immovable property being Built up double storeyed House No. J-1/11A, admeasuring 78 sq. yards, situated at Krishna Nagar, Delhi and Built up free hold Flat No. A-3/211, Milan Vihar Cooperative Group Housing Society Ltd, known as Milan Vihar Apartment, erected on plot No.



72, situated at I.P. Extension, Patparganj, Delhi and movable assets in the form of bank accounts/demat accounts/fixed deposits/valuables kept in the lockers/stock holding/jewellery/artifacts/family furniture etc.

11. Plaintiff and Defendant No. 2 have on several occasions requested Defendant No. 1 to furnish the details of the assets but there was no response. Recently, Plaintiff has learnt that Defendant No. 1 intends to misappropriate the assets and/or create third party rights in the immovable properties, constraining the Plaintiff to file the present suit.

12. Plaintiff avers that there is apprehension that Defendant No. 1 may alienate or encumber the suit properties.

13. Having heard learned counsel for the Plaintiff, this Court is of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte ad interim* injunction. Balance of convenience lies in favour of the Plaintiff and if interim injunction is not granted, irreparable harm and injury would be caused to the Plaintiff.

14. Accordingly, it is directed that till the next date of hearing, Defendant No.1 shall not sell, transfer, alienate, part with possession or any manner whatsoever encumber the suit properties and/or the movable assets, which are the subject matter of this suit.

15. Plaintiff shall comply with provisions of Order XXXIX Rule 3 CPC within a period of two weeks from today.

JYOTI SINGH, J

MAY 28, 2025

S.Sharma