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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 571/2022 & CRL.M.A.7105/2016, I.As.21693/2014,
12886/2016, 9178/2022, 10679/2022**

ABHA JAIN

..... Plaintiff

Through: Mr. Rajiv K. Nanda, Mr. Shyam S. Sharma, Mr. Sanjeev Kr. Baliyan, Mr. Anith Johnson and Mr. Yash Yadav, Advs. (M: 9899448914)

versus

SHALI JAIN @ VAISHALI JAIN

..... Defendant

Through: Mr. J.P. Sengh, Sr. Adv. with Mr. Shailendra Singh and Mr. Abhyuday Dhasmana, Advs. for D-1. (M: 9717575151)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **09.04.2024**

1. This hearing has been done through hybrid mode.
2. The Plaintiff-Abha Jain has filed the present suit for partition and rendition of accounts against the Defendant- Shali Jain @ Vaishali Jain. Along with the plaint, the Plaintiff also filed an application bearing **I.P.A 34/2014** under Order XXXIII Rule 1 read with Section 151 CPC seeking permission to sue as an indigent person, stating therein that the Plaintiff is a widow and a destitute lady. The Plaintiff got married to Sh. Vikas Jain on 12th March, 2005 but unfortunately, he passed away on 9th June, 2006.

I.A.10679/2022 (u/O XXXIX Rule 4 CPC)

3. This is an application under Order XXXIX Rule 4 CPC filed by the Defendant whereby the Defendant prays for vacation of the stay granted by



this Court on 1st June, 2022. The said order reads as follows:

“8. The present I.P.A. has been filed seeking partition and other ancillary reliefs.

9. The applicant is the widow of late Mr. Vikas Jain, who died intestate and without any children. Therefore, it is the case of the applicant that she has rights over the estate of her deceased husband.

10. It is stated that the respondent, who is the sister of the deceased husband of the applicant, has previously sold certain properties in which the applicant had interest.

11. It is apprehended that the respondent is seeking to alienate property bearing No. 5A/27 & 5A/123, Gali No.5, Near Fire Station, Darya Ganj, New Delhi-110002 (Darya Ganj property), which is the subject matter of the present I.P.A.

12. None appears on behalf of the respondent despite advance service.

13. Issue notice.

14. Notice be issued to the respondent through all modes.

15. Reply be filed within four weeks.

16. Rejoinder thereto, if any, be filed before the next date of hearing.

17. Prima facie case has been made out on behalf of the applicant for grant of ex parte ad interim injunction. Consequently, status quo with regard to title and possession shall be maintained in respect of the Darya Ganj property till the next date of hearing.”

4. The ld. Counsel for the Plaintiff submits that the suit property, in which the Plaintiff claims a 1/18th share, is being sold by the Defendant at a lower value.

5. It is argued that the Plaintiff's share would be substantially reduced if the Defendant is allowed to sell the suit property. Therefore, as a last



opportunity, the Plaintiff is given one chance to produce a buyer with verifiable credentials for the sale of the property located at '**No.5A/27 & 5A/123, Gali No.5, Near Fire Station, Darya Ganj, New Delhi-110002**'.

6. The Defendant intends to sell the property at a consideration of Rs.4.90 crores. The Plaintiff submits that they can find a buyer, who would be willing to pay at least Rs.1 crore more than the aforementioned amount. If that be so, let the Plaintiff produce the buyer on the next date of hearing along with an advance payment amount of at least Rs.50 lakhs by way of a demand draft, failing which the interim injunction would, in the opinion of the Court, be liable to be vacated, permitting the Defendant to then deposit the 1/18th sale consideration.

7. List for hearing on 25th July, 2024.

PRATHIBA M. SINGH, J.

APRIL 9, 2024/dk/rks