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

+ **CS(OS) 572/2022 & I.A. Nos. 15074/2022, 15075/2022 & 15076/2022**

NEETA KAUSHAL

..... Plaintiff

Through: Mr. Dhruv Grover with
Ms. Shreya Maggu, Advocates.
(M): 9999242552

Email: dhruv.grover2006@gmail.com

versus

ASHOK VASHISHT & ORS.

..... Defendants

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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15.09.2022

I.A. No. 15075/2022 (Application under Section 151 C.P.C. seeking exemption from filing certified/typed copy of the documents/dim annexures, filed along with the suit.)

1. This is an application seeking exemption from filing certified and clear copies of documents.
2. Recording the plaintiff's undertaking that the inspection of original documents shall be given, if demanded, or that the original documents shall be filed prior to the stage of admission/denial, the exemption is allowed.
3. As prayed, the plaintiff is allowed to file clear copies and typed version of hand written documents within four weeks.
4. Application is disposed of.

I.A. No. 15076/2022 (Application under Section 151 CPC for condonation of delay of 28 days in re-filing)

6. This is an application under Section 151 CPC for condonation



of delay of 28 days in re-filing the present suit.

7. Considering the submissions made in the application, the delay of 28 days in re-filing the plaint is condoned.

8. The application is disposed of accordingly.

CS(OS) 572/2022

9. Let the plaint be registered as a suit.

10. Issue summons to the defendants through all modes upon filing of process fee.

11. The summons to the defendants shall indicate that a written statement to the plaint shall be positively filed within 30 days from the 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 plaintiff, without which the written statement shall not be taken on record.

12. Liberty is given to the plaintiff to file a replication within 15 days of receipt of the written statement. Along with the replication, if any, filed by the plaintiff, an affidavit of admission/denial of the documents of the defendants, be filed by the plaintiff, without which the replication shall not be taken on record.

13. List before the Joint Registrar for marking of exhibits on 13th October, 2022.

14. List before this Court on 09.01.2023.

I.A. No. 15074/2022 (Application under Order 39 Rule 1 and 2 read with Section 151 C.P.C. seeking interim relief)

15. This is an application under Order 39 Rule 1 and 2 read with Section 151 CPC.



16. The present suit has been filed by a sister against her three brothers claiming 1/4th share in the estate of her deceased mother Smt. Kaushalya Devi.

17. It is contended that the plaintiff is co-owner and in possession of the suit properties and that some of her articles are lying in the property at Ashoka Park Extension, New Delhi.

18. It is submitted that father of the parties passed away on 16.01.2006 leaving behind a Will dated 17.06.2005 thereby bequeathing certain properties in favour of his wife i.e. Smt. Kaushalya Devi.

19. It is submitted that after the demise of father of the parties, the defendant no. 3 claims that their father left behind a Will dated 27.07.2005, but he did not share copy of the purported will with the plaintiff or defendant nos. 1 and 2.

20. It is submitted that the mother of the parties filed a complaint with the SHO, Police station Punjabi Bagh against the defendant no. 3 and his wife. Subsequently, the mother of the parties got published a Public Notice in Hindi Newspaper 'Rashtriya Sahara' and English Newspaper 'The Hindu' having circulation in Delhi on 25.08.2007 to the effect that she has severed her relations from her son i.e. defendant no. 3 and has disowned her son defendant no. 3 and his family from all her movable and immovable properties.

21. It is further submitted on behalf of the plaintiff that their mother passed away interstate on 16.12.2007. Subsequently, the plaintiff sent a legal notice to her brothers i.e. defendant nos. 1 to 3 calling upon for partition of the properties.



22. It is the case of the plaintiff that she received letter dated 03.12.2021 from her two brothers i.e. defendant nos. 1 and 2 who agreed for an amicable settlement. Another reply dated 14.02.2022 was also sent by defendant nos. 1 and 2, her brothers, wherein they agreed for an amicable solution for the purposes of partition of the suit properties. However, no reply has been received from her third brother i.e. defendant no. 3.

23. It is submitted that after the demise of the mother of the parties i.e. late Smt. Kaushalya Devi, the parties to the suit have all inherited 1/4th share in the suit properties, details of which are as follows:-

“(i) Built up house on Plot No. 1, Ashoka Park Rohtak Road, Delhi measuring 217 sq. yds.

(ii) Plot no. H-1205 DSIDC Complex, Narela, Delhi measuring 417 sq. yds.

(iii) Property No. 6, Chunna Mal park, New Rohtak Road, Delhi.”

24. It is submitted that her brother defendant no. 3, who is the sole contesting party, is in possession of Plot No. H-1205, DSIDC Complex, Narela, Delhi measuring 417 sq. yds. As per the plaintiff, the said complex has been let out by defendant no. 3. Thus, it is stated on behalf of the plaintiff that the plaintiff apprehends that to defeat the claim of the plaintiff, the defendant no. 3 may create third party interest in the suit properties.

25. In view of the submissions made before this Court and in view of the fact that a prima facie case has been made out by the plaintiff and that the plaintiff shall suffer irreparable loss and injury if interim



orders are not passed in favour of the plaintiff, it is directed that *status quo* be maintained with respect to title and possession of the suit properties as mentioned above.

26. Compliance affidavit under Order 39 Rule 3 CPC be filed within a week.

27. Issue notice to the defendants.

28. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

29. Re-notify the captioned application on 09.01.2023.

MINI PUSHKARNA, J

SEPTEMBER 15, 2022

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