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

+ **CS(OS) 640/2022 and I.A. 16901/2022, 12052/2023**

AMIT KUMAR

..... Plaintiff

Through: Ms. Chandrani Prasad, Ms.
Kamakshi Gupta, Advocates with
Mr. Amit Kumar plaintiff in person
(M: 9810599376).

versus

SMT MALA GUPTA & ORS.

..... Defendants

Through: Mr. Pranaynath Jha, Advocate (M:
9871353080).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **09.04.2024**

1. This hearing has been done through hybrid mode.

I.A. 12052/2023 (U/O XII Rule 6 CPC) in CS(OS) 640/2022 and I.A. 16901/2022

2. This is an application under Order XII Rule 6 CPC. The Plaintiff-Mr. Amit Kumar and late Mr. Dheeraj Prakash are brothers. Mr. Dheeraj Prakash, unfortunately, passed away during Covid-19 and within a span of three days, around the same time, the mother of the Plaintiff, namely, Smt. Usha Rani had also passed away. The Defendant No. 1- Smt. Mala Gupta, is the wife of late Mr. Dheeraj Prakash and hence the sister-in-law (*bhabhi*) of the Plaintiff. Defendant Nos. 2 and 3 are children of late Mr. Dheeraj Prakash. Properties over which partition is being sought are four in numbers which are as under:-



- i) *Property bearing no. 146P, Sector-46, Faridabad, Haryana-121010.*
- ii) *Property bearing no. 209, Sector-45, Faridabad, Haryana 121010 .*
- iii) *Property bearing no. 74, Pocket-1, Jasola, New Delhi 110025.*
- iv. *Property bearing no. 330/A/1/2, Chauhan Mohalla, Madanpur Khadar, New Delhi 110076.*

3. The case of the Plaintiff is that in the written statement it is admitted that these four properties required to be partitioned as they belong to the father and mother of the Plaintiff and one of the property *i.e.* property no. 3 is jointly owned in the following manner;-

Plaintiff - $\frac{1}{3}$ share.

Defendant No. 1 - $\frac{1}{3}$ share

Defendant Nos. 1's husband - $\frac{1}{3}$ share

4. The above facts being admitted, a decree is sought.

5. On behalf of the Defendants, it is submitted by Id. Counsel that apart from these properties, there are certain ancestral properties over which the suit is pending in Tis Hazari and a business, namely, M/s Aggarwal Cement Store, in which also the Defendants are entitled for share. However, those properties are not being added in the present suit.

6. After hearing Id. Counsel for the parties, insofar as the ancestral properties are concerned, this Court is of the opinion that since the said ancestral properties involves further family members of the extended family of the parties, the same cannot be made part of the present suit.

7. However, insofar as the business being M/s Aggarwal Cement Stores is concerned, the same is stated to be currently being managed by the Chacha of the Plaintiff *i.e.* Mr. Narender Prakash.



8. Accordingly, this Court is of the opinion that the accounts and any share of the Defendants in the said business ought to be also partitioned/paid so that a comprehensive settlement is entered into at least insofar as the branch of the family of late Shri. Surender Prakash, wife Smt. Usha Rani, Late Mr. Dheeraj Prakash and brother, Mr. Amit Kumar are concerned. In this background, it is deemed appropriate to direct that Shri. Narender Prakash (uncle of the Plaintiff) and Ms. Mala Gupta remain present in Court on the next date of hearing.

9. Let the recent balance sheet for the last three years of M/s Aggarwal Cement Stores be produced by Shri. Narender Prakash or the Plaintiff on the next date of hearing.

10. Parties are permitted to bring complete list of moveable and immovable assets of both the parents so that an overall resolution can be attempted.

11. List on 11th July, 2024.

PRATHIBA M. SINGH, J.

APRIL 9, 2024

mr/bh