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

+ **CS(OS) 643/2022**

SMT. KAMLESH VATS

..... Plaintiff

Through: Mr Ankit Rana, Adv.

versus

SH. AMANDEEP BHARDWAJ & ORS.

..... Defendants

Through: Mr Rahul Sharma, Adv. for D-1 and D-4 (through VC)

Mr Rahul Prashar, Adv. for D-2 and D-3

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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22.04.2024

I.A. 3681/2024

1. This is an application under Order XXXIX Rule 1 & 2 CPC seeking status quo against the defendants restraining the defendants from raising any unauthorized construction in property bearing land No. 1475 square yards in Khasra No. 76/50 in Extended Lal Dora of Village Alipur, Delhi till the final disposal of the suit.
2. It is stated by Mr Rana, learned counsel for the plaintiff that as per defendant Nos. 1 and 4 the said property has been devolved on defendant Nos. 1 and 4 by a duly registered last Will and testament dated 07.09.2020 by Late Sh. Ram Kumar Bhardwaj who was the owner of the property and was the father of defendant No.1 and the husband of defendant No.4. The Will is a duly registered Will.
3. In the present suit, the plaintiff has alleged undue influence and coercion by defendant Nos. 1 and 4 on Late Sh Ram Kumar Bhardwaj.



4. I have heard learned counsel for the parties.
5. The defendant Nos. 1 and 4 have a duly registered Will in their favour executed by the owner of the property. The onus of proving undue influence and coercion on Late Sh Ram Kumar Bhardwaj is upon the plaintiff. As of today, it is defendant Nos. 1 and 4 who have a *prima facie* case and balance of convenience lies in their favour. I am of the view that no fetters can be put on defendant Nos. 1 and 4 on enjoyment of the property.
6. It is the mandate of law that any person who carries out construction has to carry out in a legal and authorized manner. Hence, the prayer of the plaintiff to restrain defendants from carrying out any “unauthorized construction” is meaningless as the municipal authorities will look into whether the construction is authorized or unauthorized. Except the said restriction, no other restriction can be put on defendant Nos. 1 and 4 to use and enjoy of property. As and when the fate of the Will will be decided, appropriate orders can be passed.
7. In this view of the matter, there is no merit in the application.
8. The application is dismissed.

I.A. 16908/2022

9. In view my findings given in I.A. 3681/2024, the present application has become infructuous and is dismissed.

CS(OS) 643/2022, I.A. 24472/2023, I.A. 24473/2023

10. List before Joint Registrar (Judicial) on 14.05.2024

APRIL 22, 2024/sr

JASMEET SINGH, J

[Click here to check corrigendum, if any](#)