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

+ **CS(OS) 682/2022, I.A. 18061/2022, I.A. 18062/2022, I.A. 18063/2022, I.A. 18064/2022 & I.A. 5052/2023**

ANITA ARORA

.....Plaintiff

Through: Mr. Sumit Sinha, Advocate for LR
of the plaintiff

versus

SWEETY ARORA & ORS.

.....Defendants

Through: Mr. Sunil Dalal, Senior Advocate
with Mr. J. Aman Anand, Ms. Alisha
Sharma, Mr. Nikhil Beniwal, Mr.
Mahavir Singh and Mr. Namis Bhati,
Advocates for D-1 to D-7
Mr. Abhay Kumar Tayal, Advocate
for D-9 (through VC)
Mr. Tushar Sannu, ASC, NDMC/D-
11

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **10.07.2024**

I.A. 18063/2022 (for exemption)

1. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
2. The application for exemption is allowed, subject to the plaintiff granting inspection of the documents filed, as and when required to do so, or filing the original documents at the stage of admission/denial.
3. The application stands disposed of.



I.A. 18064/2023

4. This is an application filed on behalf of the plaintiff for condonation of delay of four days in refiling the civil suit.

5. For the reason stated in the application the delay is condoned. The application stands allowed.

I.A. APPL. 5052/2023

6. This is an application filed by the legal representatives of the deceased plaintiff namely Ms. Anita Arora under Order XXII Rule 3 Code of Civil Procedure, 1908 for substitution of her legal representatives.

7. In reply, learned senior counsel for the defendant nos. 1 to 8 states that while it is not disputed that the Applicants/Mr. Rajat Arora and Mr. Sahil Arora are the Class-I Legal Heirs of the deceased plaintiff, he states that, however, the legal heirs ought to file a fresh suit in their own name and cannot seek substitution since the present suit has not been registered, inasmuch as summons have not been issued to the defendants in the said case.

8. This Court has considered the submissions of the parties and is of the opinion that in view of the fact that this suit was instituted by the deceased late Ms. Anita Arora during her lifetime on 07.09.2022, therefore, the present application is maintainable. The suit has been filed by the deceased plaintiff for seeking partition of the estate of her father late Mr. Asa Nand and mother late Mrs. Kaushlya Devi. Her right to seek partition in the estate of her parents was sought to be exercised by her during her life time and the said right to suit survives on her legal heirs.

9. Accordingly, the application is allowed and the Legal Heirs are taken on record as plaintiff nos. 1 and 2.



10. The amended memo of parties is taken on record.

CS(OS) 682/2022

11. The present suit has been filed by the original plaintiff late Ms. Anita Arora for partition of the estate of her deceased father Mr. Asa Nand. The original plaintiff claims co-ownership rights in his estate which comprises of the shops no. 13, 14, 15 situated at Pandara Road Rehabilitation Market, New Delhi ('shops situated at Pandara Road') as well as in the residential built-up house on plot bearing no. 16, Block-E, Sector - 41, Noida District, Gautam Budh Nagar, U.P ('residential house'). The plaintiff was admittedly a Class-I Legal Heir of late Mr. Asa Nand.

12. In reply, learned senior counsel for the defendant nos. 1 to 7 states that while it is admitted that shop no. 14 Pandara Road Rehabilitation Market, New Delhi was a licensed shop in the name of late Mr. Asa Nand and the residential house at Noida was also standing in his name; however, learned senior counsel states that the defendant nos. 1 to 7 have an objection with respect to limitation qua the relief of declaration and other legal pleas as regards to the maintainability of the suit. He states that shop no. 14 was mutated in favour of the defendants after the death of late Mr. Asa Nand. He states that shop nos. 13 and 15 were never licensed in the name of late Mr. Asa Nand.

13. In the opinion of this Court, needless to state that the defendants will be at liberty to raise all the said legal pleas in his written statement, however, in view of the fact that some of the suit properties admittedly stood in the name of late Mr. Asa Nand, the claims in the suit require consideration.



14. The plaint be registered as a suit.

15. Issue summons. Ms. Alisha Sharma learned counsel accepts summons on behalf of defendant nos. 1 to 7 and waives formal service of summons.

16. Mr. Tushar Sannu, learned standing counsel accepts summons on behalf of defendant no. 11 and waives formal service of summons. Defendant no. 11 is directed to place on record the entire record pertaining to the allotment of the shop nos. 13, 14 and 15 situated at Pandara Road, from its allotment and thereafter with respect to substitution/mutation in favour of Legal Heirs of Mr. Asa Nand. This Court would like to examine the documents filed by defendant nos. 1 to 7 before NDMC for seeking transfer of the license rights in these shops from late Mr. Asa Nand in favour of his legal heirs to the exclusion of plaintiff herein. Defendant nos. 1 to 7 are also directed to place on record the documents evidencing that allotment of shop nos. 13 and 15 has always been in the name of defendants to prove that late Mr. Asa Nand was not the licensee of these shops.

17. Mr. Abhay Tayal, learned counsel for defendant no. 9 appears through video conferencing and waives formal service of notice. Defendant no. 9 is directed to place on record the documents pertaining to title rights of the residential property at Noida including the documents filed by the defendants before defendant no. 9 after the death of late Mr. Asa Nand for seeking mutation in favour of his legal heirs.

18. Upon process fees being filed, issue notice to defendant no. 8 and defendant no. 10 through all permissible modes. Affidavit of service be filed within two weeks. The summons shall indicate that written statements must be filed within thirty days from the date of receipt of summons. The defendants shall also file affidavits of admission/denial of the documents



filed by the plaintiffs, failing which the written statements shall not be taken on record.

19. Similarly, defendant nos. 1 to 7, 9 and 11 who have entered appearance are directed to file their written statements within 30 days from today along with affidavit of admission/denial of documents filed by the plaintiff, failing which the written statements shall not be taken on record. Defendant nos. 9 and 11 will also file the documents as directed above.

20. The plaintiffs are at liberty to file replications thereto within thirty days after filing of the written statements. The replications shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendants, failing which the replications shall not be taken on record.

21. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

22. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

I.A. 18062/2022

23. This is an application filed by the plaintiff under Order II Rule 2 seeking leave to claim further reliefs at a later stage.

24. This application is allowed and liberty is granted to the plaintiff.

I.A. 18061/2022

25. Issue notice. Learned counsel for defendant nos. 1 to 7, 9 and 11 accept notice. Issue notice to defendant nos. 8 and 10 through all permissible modes.

26. Reply, if any, be filed within 30 days. Rejoinder thereto, if any, be filed within two weeks thereafter, with copies to the opposite counsel.



27. The application shall be taken up on the next date of hearing after perusing the replies of the parties.
28. List before the Joint Registrar (J) for completion of pleadings and service on 17.09.2024.
29. List before the Court on 29.11.2024.

MANMEET PRITAM SINGH ARORA, J

JULY 10, 2024/msh/ms