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

+ **CS(OS) 746/2022**

AAGOMONI DAS

..... Plaintiff

Through: Mr. Jayant Tripathi, Ms. Rujul Jain
and Mr. Shreya Gupta, Advocates.

versus

ARINDAM SIRKER & ANR.

..... Defendants

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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30.11.2022

I.A. No. 20088/2022 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

I.A.No. 20089/2022 (for exemption from service of defendat)

In view of the urgent relief sought in the application, same is allowed.
Steps be now taken for service of the defendants through all permissible
modes for the date fixed.

The application stand disposed of.

CS(OS) 746/2022

1. The present suit is premised on the basis that the plaintiff is entitled to 1/3rd share in property bearing no. E-787, Chittaranjan Park, New Delhi-110019, admeasuring 194 sq. Yards.
2. It is averred in the plaint that the plaintiff's grandmother left an unregistered Will dated 29.08.2022 whereby the suit property is to devolve in favour of the plaintiff and the defendants so that each of them is entitled



to 1/3rd share therein. It is submitted by learned counsel for the plaintiff that the defendants are brothers of the plaintiff's deceased mother. The plaintiff's mother is stated to have passed away on 23rd September, 1997. The plaintiff claims her right in the suit property to the extent of undivided 1/3rd share on the basis of an unregistered Will dated 29.08.2022 of grandmother of the plaintiff, late Smt. Rama Sirker. The plaintiff claims to be in constructive possession of the property and apprehends that the defendants are in the process of creating third party rights in the suit property in order to frustrate the aforesaid Will of late Smt. Rama Sirker.

3. Upon a *prima facie* conspectus of the submissions made, let the plaint be registered as a suit.

4. Issue summons in the suit, on steps being taken by the plaintiff through all permissible modes, including electronically. *Dasti* in addition. Let the summons indicate that the defendants are required to file their respective written statement to the present suit within 30 days from the date of receipt of the summons, alongwith an affidavit of admission/denial of the documents filed by the plaintiff. The plaintiff may file replication to the written statements within 30 days thereafter, alongwith an affidavit of admission/denial of the documents filed by defendants.

5. List before the Joint Registrar for completion of pleadings, for admission/denial of documents and marking of exhibits on 24th January, 2023.

6. List before court on 6th April, 2023.

I.A. No. 20087/2022 (for ex-party ad-interim orders)

7. By way of this application filed under Order XXXIX Rules 1 and 2 CPC read with Section 151 CPC, the plaintiff seeks an *ad-interim, ex-parte*



injunction, restraining the defendants from creating any third party rights in the property bearing no. E-787, Chittaranjan Park, New Delhi -110019.

8. Issue notice to the defendants on steps being taken by the plaintiff through all permissible modes, including electronically.

9. In view of the factual matrix as narrated hereinabove, it is directed that *status quo* as regards title and possession shall be maintained in respect of the property in question, i.e., property bearing no. E-787, Chittaranjan Park, New Delhi -110019.

10. Let reply be filed by the defendants within a period of four weeks from today. Rejoinder thereto, if any, be filed before the next date of hearing.

11. Plaintiff is directed to comply with the provisions of Order 39 Rule 3 of the Code of Civil Procedure, 1908 within 07 days.

12. List before the Joint Registrar for completion of pleadings on 24th January, 2023.

13. List before Court on 6th April, 2023.

SACHIN DATTA, J

NOVEMBER 30, 2022

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