



\$~17

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

+ **CS(OS) 775/2022**

SUMIT CHHABRA

.....Plaintiff

Through: Mr. Anish Dewan and Mr. Aayush
Dawar, Advocates

versus

SMT PREETI CHHABRA & ORS.

.....Defendants

Through: Mr. Shashank Kumar, Advocate for
D-1 along with D-1 in person
Mr. Gurpreet Singh and Mr. Dhruv
Kumar, Advocates for D-6 to D-8

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **07.01.2025**

1. This is a suit for partition filed with respect to Shop No. 228, admeasuring 30' X 10'-6" having ground and first floor situated at Ajmeri Gate, Chawri Bazar, Delhi-110006 ('Suit Property no. 1') and residential property bearing no. D-6/12, measuring 233.3Sq. Yds., situated at Rana Pratap Bagh, Delhi ('Suit Property no. 2').
2. The parties to the suit admit that Shri Shori Lal was the recorded owner of Suit Property no. 1 and Smt. Ram Lubhai Chhabra was the recorded owner of the Suit Property no. 2.
3. The parties also admit that both Shri Shori Lal and Smt. Ram Lubhai Chhabra died intestate.
4. The parties further admit that since plaintiff's father late Sh. Tilak Raj Chhabra was the Class-I legal heir of late Shri Shori Lal and late Smt. Ram



Lubhai Chhabra, late Sh. Tilak Raj Chhabra inherited 1/6th share in both these properties.

5. Defendant no. 1 is the sister of the plaintiff. The defendant no. 1 admits the plaintiff's claim qua Suit Property no. 1.

6. Defendant no. 1, however, raises a dispute with respect to the claim in the plaint with respect to the Suit Property no. 2; as she relies upon a registered Gift Deed executed by her father late Sh. Tilak Raj Chhabra in her favour. Defendant no. 1 is admittedly in possession of the ground floor of the Suit Property no. 2.

7. Defendant nos. 6 to 8's written statement and the documents are not on record as their right has been closed. Plaintiff and defendant no. 1 however, state that defendant no. 6 is in exclusive possession of Suit Property no. 1 and defendant nos. 6 to 8 are in joint possession of first floor of the Suit Property no. 2.

8. Learned counsel for the plaintiff states on instructions that plaintiff is not in actual physical possession of either of these properties.

9. The defendant no. 1 has relied upon a registered gift deed dated 27.12.2021 stated to have been executed by late Sh. Tilak Raj Chhabra in favour of defendant no. 1 bequeathing his entire right, title or interest in favour of defendant no. 1 in Suit Property no. 2. It is a matter of record that late Sh. Tilak Raj Chhabra was estranged from the plaintiff and in these facts execution of the Gift Deed bequeathing his entire share in favour of defendant no. 1 stands to reason. The gift deed admittedly was filed by defendant no. 1 is on record along with its written statement and the plaintiff has had due notice of the said gift deed. In the considered opinion of this Court, in view of the registered gift deed dated 27.12.2021, the present suit



filed with respect to the Suit Property no. 2 is without any cause of action.

10. Thus, in view of the registered gift deed dated 27.12.2021, no issue qua the said property arises for consideration and therefore no issue can be framed.

11. Accordingly, issues in the suit is being framed only qua Suit Property no. 1. The following issues have been framed with the assistance of the parties.

i. Whether the plaintiff has correctly valued the suit for the purposes of court fees and jurisdiction and the proper court fee has been paid on it?

OPP

ii. Whether the plaintiff is entitled to decree of partition, possession and permanent injunction qua Suit Property no. 1, i.e., shop no. 28? OPP.

iii. Costs and Reliefs.

12. No other issues are pressed by the parties.

13. The parties are directed to file their list of witnesses within two (2) weeks.

14. The plaintiff shall file its evidence affidavits within six (6) weeks.

15. List before Ld. Joint Registrar for fixing the dates for recording of evidence on **07.03.2025**.

MANMEET PRITAM SINGH ARORA, J
JANUARY 7, 2025/rhc/AKT