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

+ **CS(OS) 709/2024**

SMT MANJU AGGARWAL

.....Plaintiff

Through: **Mr. Puneet Goel, Advocate**

versus

SMT SANTOSH AGGARWAL & ORS.

.....Defendants

Through: **None**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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04.09.2024

I.A. 38351/2024 (for exemption from filing the certified copies/official translation of annexures and documents)

Plaintiff shall file legible and clearer copies and official translation of exempted documents, compliant with practice rules, before the next date of hearing.

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.

The application stands disposed of.

CS(OS) 709/2024

1. This suit has been filed for partition, possession and permanent injunction for the estate of late Sh. Krishan Gopal Aggarwal, who passed away on 11.01.2022. It is stated that late Sh. Krishan Gopal Aggarwal died intestate and left behind his widow i.e., defendant no. 1 and four sons, i.e.,



defendant nos. 2 to 5 as well as two daughters, i.e., plaintiff and defendant no. 6 as his Class-I legal heirs.

2. Learned counsel for the plaintiff states that the plaintiff's father owned two (2) immovable properties details whereof are set out in paragraph '5' and '7' of the plaint. The said properties are referred to as B-9, Mansarovar Park, Shahdara, Delhi-110032 ('Mansarovar Park property') and undivided 2/3rd share in property bearing no. B/2 (plot no. 2, Block B) out of Khasra No. 72 and 71, West Jyoti Nagar, Shahdara, Delhi-110095 admeasuring 524.3 sq. yds ('West Jyoti Nagar, Shahdara' property).

2.1. He states that a suit (CS 363/2023) for partition was initially filed before the Karkardooma District Court; however, the plaint was returned vide order dated 29.05.2024 on account of lack of pecuniary jurisdiction.

2.2. He states that since late Sh. Krishan Gopal Aggarwal died intestate, therefore, the plaintiff is entitled to 1/7th share in the estate of her father. He states that in a separate suit (CS No. 90/2023) for declaration and permanent injunction filed by defendant nos. 2, 3 & 4, the entitlement of the plaintiff to the extent of 1/7th share in late Sh. Krishan Gopal Aggarwal, i.e., her father's estate is admitted by the said defendants.

2.3. He, however, states that he would like to clarify that the plaintiff herein is not challenging her mother Smt. Santosh Aggarwal's, i.e., defendant no. 1's absolute right and title to the extent of undivided 1/3rd share in the West Joyti Nagar, Shahdara property, which was purchased by defendant no. 1 by a separate sale deed dated 27.08.1993 and which defendant no. 1 has already transferred in favour of defendant no. 5. He states that plaintiff does not dispute the transfer effected by her mother, i.e.,



defendant no. 1 in favour of defendant no. 5. The said statement of the plaintiff is taken on record.

3. Let the suit be registered.

4. Upon steps being taken by the plaintiff, issue summons to defendant nos. 1 to 6 through all modes.

5. The summons shall indicate that written statement(s) must be filed within thirty (30) days from the date of receipt of summons. The defendant(s) shall also file affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statement(s) shall not be taken on record.

6. The plaintiff is at liberty to file replication(s) thereto within thirty (30) days after filing of the written statement(s). The replication(s) shall be accompanied by affidavits of admission/denial in respect of the documents filed by the defendant(s), failing which the replication(s) shall not be taken on record.

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

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

9. List before the Joint Registrar (J) for completion of service on **04.11.2024.**

10. List before Court on **03.02.2025.**

I.A. 38350/2024 (Under Order XXXIX Rule 1 & 2 CPC)

11. The present suit has been filed for the partition of the estate of the plaintiff's father i.e., late Shri Krishan Gopal Aggarwal. The plaintiff states that late Shri Krishan Gopal Aggarwal owned undivided 2/3rd share in the



West Jyoti Nagar, Shahdara property purchased vide sale deed dated 27.08.1993. The said sale deed has been placed on record.

12. Similarly, the plaintiff states that plaintiff's father also purchased Mansarovar Park property and the sale deed dated 14.09.1970 recording the title of the father has also been placed on record.

13. The plaintiff has averred that late Shri Krishan Gopal Aggarwal died intestate and therefore, the plaintiff has become entitled to 1/7th share in the property.

14. The plaintiff has also placed on record the pleadings in Civil Suit No. 90/2023 filed by defendant nos. 2, 3 & 4 against their mother, i.e., defendant no. 1 and the plaintiff herein, wherein the 1/7th share of the plaintiff stands admitted by the said defendants.

15. In view of the aforesaid facts and documents on record, the plaintiff has established a *prima facie* case in her favour.

16. Accordingly, the parties are directed to maintain status quo with respect to title and possession of the suit properties, i.e., Mansarovar Park property and West Jyoti Nagar, Shahdara property, until the next date of hearing.

17. Upon steps being taken by the plaintiff, issue notice to defendant nos. 1 to 6 through all modes.

18. Let the notice be state that the reply be filed within a period of four (4) weeks. Rejoinder thereto, if any, be filed within a period of two (2) weeks thereafter.

19. The compliance of Order XXXIX Rule 3 CPC shall be done within one (1) week. Affidavit of compliance be filed within one (1) week thereafter.



20. List the matter before the Ld. Joint Registrar (J) on **04.11.2024**.
21. List the matter before the Court on **03.02.2025**.
22. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 4, 2024/rhc/sk