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

+ **CS(OS) 36/2024, I.A. 893/2024, I.A. 894/2024, I.A. 895/2024**

SAHEBDEI AND ORS.

..... Plaintiffs

Through: Mr.Akil Rataeeya, Mr.Ajay Kumar
and Mr.Harsh Gulia, advts.

versus

SANTOSH DEVI AND ORS.

..... Defendants

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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15.01.2024

I.A. 894/2024 (exemption)

Exemption is allowed subject to all just exceptions.

Application stands disposed of.

CS(OS) 36/2024

Present plaint has been filed for partition, declaration, rendition of account and permanent injunction with the following prayer:

a) Pass a decree of declaration, declaring the Will dated 06.11.2001; Gift Deed dated 10-08-2022 and GP A, Agreement to sell, Affidavit, Will dated 12-10-2022 as illegal, unlawful null and void qua the suit property i.e., Plot no. 184/1, KH. No. 32, admeasuring 200 sq. yds., Village Pochanpur, New Delhi, in the interest of justice;

b) Pass a decree of Partition, thereby passing a preliminary and final decree of partition of the suit properties i.e.,

i) Property bearing Plot no. 184/1, KH. No. 32, admeasuring 200 sq. yds., Village Pochanpur, New Delhi build upto 3 floors Ground, Upper Ground, First, Second and Third floors (more



specifically shown in Red Colour in Site plan);

ii) House no. 271, Pole no. 15, admeasuring 65 sq. yds., situated in Lal Dora Abadi of Village Pochanpur, New Delhi-110077 build upto 2 floors i.e., Ground and first floor (more specifically shown in Yellow Colour in Site plan);

iii) Property near Pole no. 46, admeasuring 105 sq. yds., near chaupal, Village Pochanpur, New Delhi-110077 build upto 2 floors i.e., Ground and first floor (more specifically shown in Yellow Colour in Site plan);

iv) Property near Pole no. 59, admeasuring 250 sq. yds., Near Shani Dev Mandir, Village Pochan pur, New Delhil 10077 build upto Ground floor (more specifically shown in Blue Colour in Site plan) by metes and bounds giving/ granting 1/6th share to the Plaintiffs out .of the suit properties as mentioned, in the interest of justice;

c) Pass a preliminary decree of partition in favour of the plaintiffs qua the suit properties by appointing shares of the co- sharers/ co-owners;

d) Pass a decree of permanent injunction thereby restraining and prohibiting the defendants, their attorneys, servants, legal heirs, executors, administrator, agents, friends, family etc. not to create any third-party interest of whatsoever nature like sell/lease/ mortgage, not to part with possession, not to raise any kind of construction in the suit property i.e., as mentioned in para no. 7 from serial no. a to d, till the final disposal of the suit;

Let the plaint be registered as suit.

Summons be issued to the defendants by all permissible modes, which shall indicate that the written statements must be filed within thirty days from the date of receipt of the summons.

The defendants are directed to file affidavit of admission/denial against the documents filed by the plaintiffs, failing which the written



statement shall not be taken on record.

The plaintiffs are at liberty to file replications thereto within fifteen days of filing of the written statements, which 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.

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

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

List before the Joint Registrar (Judicial) on 15.03.2024.

I.A. 893/2024 (U/O 39 R-1 AND 2 CPC)

Present application has been moved by the plaintiffs under Section XXXIX Rules 1 And 2 CPC for the grant of ex-parte interim injunction with the following prayers:

(a) ad-interim ex-parte injunction in favour of the plaintiffs and against the defendants thereby restraining and prohibiting them, their attorneys, servants, legal heirs, executors, administrator, agents, friends, family etc. not to create any third-party interest of whatsoever nature like sell/ mortgage, not to part with possession, not to raise any kind of construction in the suit property i.e.,

i) Property bearing Plot no. 184/1, KH. No. 32, admeasuring 200 sq. yds., Village Pochanpur, New Delhi build upto 3 floors Ground, Upper Ground, First, Second and Third floors (more specifically shown in Red Colour in Site plan);

ii) House no. 271, Pole no. 15, admeasuring 65 sq. yds., situated in Lal Dora Abadi of Village Pochanpur, New Delhi 110077 build upto 2 floors i.e., Ground and first floor (more specifically shown in Yellow Colour in Site plan);



iii) *Property near Pole no. 46, admeasuring 105 sq. yds., near chaupal, Village Pochanpur, New Delhi-110077 build upto 2 floors i.e., Ground and first floor (more specifically shown in Yellow Colour in Site plan);*

iv) *Property near Pole no. 59, admeasuring 250 sq. yds., Near Shani Dev Mandir, Village Pochan pur, New Delhi 110077 build upto Ground floor (more specifically shown in Blue Colour in Site plan) (all the above mentioned properties i.e., are shown in different colours in site plan are jointly referred as "**SUIT PROPERTIES" OR SUIT PROPERTY**") in the present suit and the application, till the final disposal of the suit;*

Issue notice to the defendants through all permissible modes, returnable for 13.02.2024 before the Court.

I.A. 895/2024 (u/O 32 Rule 3 CPC)

Present application has been moved by the plaintiffs under Order XXXII Rules 2 read with Section 151 CPC with the following prayer:

(a) allow the present application and appoint Smt. Santosh Devi as the natural Guardian of the minor Defendants namely Master Prateek aged 16 years and Baby Parisha aged 9 years being grandmother of the minor defendants and both are in the care and custody of Smt. Santosh Devi; and also appoint Smt. Manbiro as the natural Guardian of the minor Defendant namely Baby Mahi aged 9 years being grandmother of the minor defendant as she is in the care and custody of Smt. Manbiro Devi, in the interest of justice;

Issue notice to the defendants through all permissible modes, returnable for 13.02.2024 before the Court.

DINESH KUMAR SHARMA, J

JANUARY 15, 2024/rb