



\$~30

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

+ **CS(OS) 724/2024**

SUDESHNA GOYAL

.....Plaintiff

Through: Mr. S.K. Raut, Ms. Dimple Dhamija,
Mr. Aman Mehrotra and Mr. Rahul
Kumar, Advocates

versus

MOHAN LAL AGGARWAL & ORS.

.....Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

%

09.09.2024

I.A. 38825/2024 (exemption)

1. Allowed, subject to all just exceptions.

I.A. 38826/2024 (under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay in re-filing of the suit)

2. By way of present application, the plaintiff seeks condonation of delay of 30 days in re-filing of the suit.

3. For the reasons mentioned in the application, the same is allowed.

4. The application stands disposed of.

CS(OS) 724/2024

5. The plaint be registered as a suit.

6. On filing of process fee, summons be issued to the defendants by all permissible modes.



7. The summons shall indicate that written statement must be filed within thirty days from the date of receipt of summons. The defendants shall also file an affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statement shall not be taken on record.

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

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

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

11. List before the learned Joint Registrar for completion of service, pleadings, admission/denial of documents and marking of exhibits on 22.11.2024.

12. List before the Court after completion of pleadings on 05.12.2024.

I.A. 38824/2024 (under Order XXXIX Rules 1 and 2 read with Section 151 CPC seeking grant of ad-interim *ex parte* injunction)

13. Issue notice to the defendants by all permissible modes.

14. The plaintiff is daughter of late Smt. Om Wati Aggarwal wife of late Sh. Ram Krishna Aggarwal. The defendant nos. 1 and 3 are brothers of the plaintiff whereas defendant no. 2 is son of deceased brother of the plaintiff. Defendant no. 4 is the sister of the plaintiff.

15. Learned counsel for the plaintiff submits that the suit property bearing No. 65/31, New Rohtak Road, Karol Bagh, New Delhi-110005 was owned by the mother of the parties, namely, late Smt. Om Wati Aggarwal who died



intestate on 09.02.2012, therefore, the plaintiff and other four siblings of the plaintiff became owner of the said property to the extent of one-fifth share each. He submits that in November, 2022, the plaintiff came to know about the forgery committed by defendant nos. 1 and 2.

16. Elaborating his submissions, learned counsel for the plaintiff invites the attention of the Court to the sale deed dated 14.11.2006 which was purportedly executed by late Smt. Om Wati Aggarwal in favour of defendant no. 1 and defendant no. 2. He further invites the attention of the Court to the conveyance deed dated 01.07.2011 executed by the Delhi Development Authority in favour of late late Smt. Om Wati Aggarwal, to contend that when the sale deed was allegedly executed by late Smt. Om Wati Aggarwal in November, 2006 she was not an owner of the suit property but was only a lessee thereof, therefore, she could not execute the sale deed by claiming herself to be the owner of the suit property.

17. He submits that the sale deed thus, executed by late Smt. Om Wati Aggarwal in favour of defendant nos. 2 and 3 is *non-est*. He submits that this aspect of sale was never brought to the notice of the plaintiff. However, in November, 2022 when the plaintiff came to know about the forgery having been committed by the defendant nos. 1 and 2, a legal notice dated 26.12.2022 was sent by her counsel to the defendant nos. 1 and 2 and in response to the same, the said defendants sent a reply dated 11.01.2023 wherein it was mentioned that they are ready to interact with the plaintiff and sort out her misunderstanding.

18. He submits that since the sale deed is not legally tenable, therefore, the plaintiff has a right in the suit property to the extent of one-fifth share.

19. There appears to be substance in the submission of the learned counsel



appearing on behalf of the plaintiff. Thus, the plaintiff has made out a *prima facie* case in her favour.

20. I am also satisfied that the balance of convenience is in favour of the plaintiff and she will suffer an irreparable loss and injury if third party interests are created by the defendants, as apprehended by the plaintiff, in the suit property before the next date.

21. The parties are, therefore, directed to maintain *status quo* as to the title and possession of the suit property as detailed in the plaint, till the next date.

22. Provisions of Order XXXIX Rule 3 CPC be complied with *qua* the defendants within ten days from today and affidavit of compliance be filed within a period of three days thereafter. The defendants will be at liberty to apply for variation/alteration/modification of this order, if necessary.

23. Defendants may file replies to the application within four weeks on receipt of notice. Rejoinder thereto, if any, be filed within a period of two weeks thereafter.

24. List before the Joint Registrar for completion of service, as well as, pleadings on 22.11.2024.

25. List before the Court on 05.12.2024.

VIKAS MAHAJAN, J

SEPTEMBER 9, 2024

‘rs’