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

+ **CS(OS) 798/2024 & CAV 493/2024, I.A. 41281/2024**

MRS MANJU DEWAN

.....Plaintiff

Through: **Ms. Devika Mohan, Advocate**

versus

SMT PUSHPA DHAWAN AND OTHERS & ORS.Defendants

Through: **Mr. Ashim Vachher and Ms. Saiba M. Rajpal, Advocates for D-1 to D-3**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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04.10.2024

I.A. 41282/2024 (for exemption filing of the certified and clear copies of the dim documents)

1. Plaintiff shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
2. 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.
3. The application stands disposed of.

CS(OS) 798/2024 & I.A. 41281/2024 (Application under Order XXXIX Rule 1 and 2).

4. Let the plaint be registered as a suit.
5. Issue summons. Ms. Saiba M. Rajpal, Advocate enters appearance on behalf of defendant nos. 1, 2 and 3 and accepts summons. She confirms the



receipt of the suit paper book and waives the right of formal service of summons on behalf of defendant nos. 1 to 3. She states that she will file her *vakalatnama* within one (1) week and written statement(s) within 30 days along with affidavit(s) of admission/denial of documents, failing which the written statement(s) shall not be taken on record.

6. Issue summons to defendant no. 4 through all modes. Affidavit of service be filed within two weeks.

7. The summons shall indicate that the written statement must be filed within thirty days from the date of receipt of the summon. The defendant no. 4 shall also file 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(s) thereto within thirty days after filing of the written statements. The replication(s) 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.

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. This is a suit filed by the plaintiff seeking partition of the estate of late Shri M.L. Dhawan. In the plaint at paragraph no. 4, the immovable properties have been enlisted. The plaintiff is stated to be residing along with her family at the Sarita Vihar property enlisted at sr.no. (iv).

12. Mr. Ashim Vachher, learned counsel on behalf of defendant nos. 1,2 and 3 states that late Sh. M.L. Dhawan has executed a registered Will dated



11.03.2022 by virtue of which he had bequeathed all his estate in the favour of his wife i.e., defendant no. 1 herein. He states that the original of the said registered Will is in the custody of defendant no. 1. He states that he will file a copy of the said Will within one (1) week, and the same will also be served upon the plaintiff.

12.1 He states that the property listed at serial no. vi at paragraph no. 4 is exclusively in the name of defendant no. 1. He states that the non-residential property is owned by a partnership firm in which defendant no. 2, along with his wife, are partners. He states that title documents for each of the immovable properties shall be placed on record with the written statement.

13. In response, learned counsel for the plaintiff states that to her knowledge, properties at serial nos. (i) to (v) at paragraph no. 4 of the plaint stand in the name of late Sh. M.L. Dhawan.

14. Learned counsel on behalf of defendant nos. 1, 2 and 3 further states that though the property at Sarita Vihar has devolved upon defendant no. 1; however, he admits that the plaintiff along with her family is residing at Sarita Vihar property and the defendants have no intention of disturbing her possession at this stage. He states that he has instructions to state that such of the immovable properties, which stand in the name of the late Sh. M. L. Dhawan, shall not be alienated until the next date of hearing and a restraint order for maintaining status quo with respect to the properties mentioned at para 4 of the plaint can be passed.

15. The statement of the defendant nos. 1 to 3 is taken on record and they are bound down to the same. Until the next date of hearing, the parties are directed to maintain status quo with respect to title and possession of the suit properties, wherein the title documents admittedly are in the name of late



Shri M.L. Dhawan.

16. List before the learned Joint Registrar (J) for completion of service and pleadings on **09.12.2024**.

17. List before the Court on **31.01.2025**.

18. The plaintiff shall comply with the provision of Order XXXIX Rule 3 CPC within one week and affidavit of service within one week.

19. 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

OCTOBER 4, 2024/rhc