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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 799/2024**
VED KAUR & ANR.Plaintiffs

Through: Ms. Smita Maan, Mr. Vishal Maan,
Mr. Aakash Sehrawat and Mr. Pushant
Sehrawat, Advs.

versus
VINOD KUMAR & ANR.Defendants

Through:

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
04.10.2024

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I.A.41293/2024 (by plaintiff under Section 151 CPC seeking exemption from filing translated and typed copies of documents/annexures)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The plaint be registered as a suit.
4. On filing of process fee, summons be issued to the defendants by all permissible modes.
5. 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.
6. The plaintiffs are 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 defendants, failing which the replication 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 learned Joint Registrar for completion of service, pleadings, admission/denial of documents and marking of exhibits on 09.12.2024.

10. List before Court after completion of pleadings on 03.02.2025.

I.A. 41292/2024 (by plaintiffs under Order XXXIX Rules 1 and 2 read with Section 151 CPC seeking grant of *ex parte ad interim* injunction)

11. Issue notice to the defendants, by all permissible modes.

12. The present suit has been filed by the plaintiffs seeking partition and permanent injunction.

13. The learned counsel for the plaintiffs submits that the plaintiff no.1 and plaintiff no.2 are the wife and daughter of Late Dharam Singh, respectively, who died intestate, whereas the defendant nos. 1 and 2 are sons of Late Dharam Singh.

14. She submits that Late Dharam Singh owned and possess four properties as enumerated in para 3 of the plaint and as of now the plaintiffs are confining their prayer of interim relief only with respect to the property mentioned in para 3 (iii) of the plaint, which is comprised in Khasra No.57 within the Lal Dora Abadi, Village Malik Pur, New Delhi-110073.

15. She submits that as far as said Lal Dora land is concerned, the possession of the land is equivalent to that of ownership. She submits that the



defendants after the demise of their father Late Dharam Singh, have not been taking care of their mother i.e. plaintiff no.1.

16. A legal notice was also given by the plaintiffs on 12.08.2024 after which the defendants have started raising construction on property no.3. In support of her contention, she has invited the attention of the Court to the photographs of the property no.3 which shows that some bricks have stacked on the said property for the purpose of construction.

17. She submits that since the prayer for partition has been made in the present suit, the plaintiffs will suffer an irreparable loss, in case the defendants continue with the construction on the aforesaid property.

18. Considering the fact that the plaintiff no.1 is the wife and plaintiff no. 2 is the daughter of late Dharam Singh and further regard being had to the fact that Late Dharam Singh died intestate, the plaintiff nos. 1 and 2 would ordinarily be entitled to share in the intestate of Late Dharam Singh. Therefore, I am of the view that the plaintiffs have made out a *prima facie* case for grant of *ad interim* order of *status quo* in respect of the property as mentioned in para 3(iii) of the plaint.

19. The balance of convenience is also in favour of *ad interim* of *status quo* being passed; I am satisfied that the plaintiffs will suffer an irreparable loss and injury if the defendants continue with the construction in the said property before the next date.

20. The defendants are, therefore, directed to maintain *status quo* as to the title, possession and construction over the property mentioned in para 3(iii) of the plaint .i.e. Khasra No.57 within the Lal Dora Abadi, Village Malik Pur, New Delhi-110073, till the next date.

21. 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.

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

23. List before the learned Joint Registrar for completion of service and pleadings on 09.12.2024.

24. List before Court after completion of pleadings on 03.02.2025.

VIKAS MAHAJAN, J

OCTOBER 4, 2024/dss