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

+ **CS(OS) 807/2024 & I.A. 41565/2024**

ROOPA KAUSHIK

.....Plaintiff

Through: Mr. Ashish Mohan, Sr. Adv. with Mr.
Hemant Manjani, Ms. Deepali Das
Gupta, Advocates

versus

PRATIMA MAHAJAN & ORS.

.....Defendants

Through: Ms. Shimpy Sharma and Ms.
Alexandra Nongrum, Adv. for D-1
Ms. Shreya Singhal, Ms. Mhasilenuo
Kedistu, Advocates for D-2 and 3
Mr. Arush Bhandari and Ms. Simran
Shah, Advs. for D-4 to D-7

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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13.05.2025

CS(OS) 807/2024

1. The present suit has been filed for partition of the property bearing no. M-251, Greater Kailash Part II, New Delhi, 110048 (hereinafter 'property no. M-251') and/or partition of property bearing no. M-249, Greater Kailash Part II, New Delhi-110048 (hereinafter 'M-249'), and all savings accounts, deposit accounts.
2. The plaint be registered as a suit. Issue summons.
3. Ms. Shimpy Sharma, learned counsel for defendant no. 1, enters appearance on advance service. She accepts summons and waives formal service of summons. She states that property no. M-249 belonged to the

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father of the parties, Late Sh. Bhawani Shankar Kaushik, who executed a Will dated 08.04.2019, which is the subject matter of probate in TEST.CAS. 23/2022. She states that the present suit, *qua* the said property is therefore, not maintainable.

4. Ms. Shreya Singhal, learned counsel enters appearance on behalf of defendant nos. 2 and 3. She states that the property bearing no. M-251 was owned by the mother of the parties, Late Smt. Chander Kala Kaushik. She states that Late Smt. Chander Kala Kaushik executed a registered Will dated 25.08.1999 whereby the property was bequeathed in favour of Smt. Meena Gangahar, mother of defendant nos. 2 and 3. She states that defendant nos. 2 and 3 have also filed TEST.CAS 84/2024 *qua* the Will dated 25.08.1999.

4.1. She further relies upon a certified copy of the registered Will dated 06.06.2001 executed by Late Sh. Bhawani Shankar Kaushik, which records that the mother i.e., Late Smt. Chander Kala Kaushik was the exclusive owner of property no. M-251.

4.2. She states that although the plaint refers to the Wills dated 08.04.2019, 25.08.1999, and 06.06.2001, the plaintiff has failed to seek any declaratory relief challenging the same, and, therefore, the suit is not maintainable and is liable to be rejected.

5. Mr. Aarush Bhandari, learned counsel enters appearance on behalf of defendant nos. 4, 5, 6 and 7 on advance service and he waives formal service of summons. He states that defendant nos. 4, 5, 6 and 7 are relying upon the Will dated 06.06.2001 of Late Sh. Bhawani Shankar Kaushik.

6. Learned senior counsel for the plaintiff, states on instructions, that though the plaint refers to a gift deed executed in favour of the plaintiff, the plaintiff has neither seen such a gift deed nor does she have in her

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possession such a deed. He states that the plaintiff will file an affidavit to this effect within one (1) week.

7. The written statement(s) must be filed by defendant nos. 1 to 7 within thirty (30) days from today. The defendants shall also file affidavit(s) of admission/denial of the document(s) filed by the plaintiff, failing which the written statement(s) shall not be taken on record.

8. The plaintiff is at liberty to file replication thereto within thirty (30) days after filing of the written statement(s). The replication shall be accompanied by affidavit of admission/denial in respect of the document(s) filed by the defendants, 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 (J) on **18.07.2025**.

12. Subject to orders of Hon'ble the Judge In-Charge (Original Side), list this suit along with TEST.CAS 22/2023 and TEST.CAS 84/2024 before the same Bench on **24.09.2025**.

I.A. 41565/2024 (application on behalf of the plaintiff under Section 151 read with Order XXXIX Rules 1 and 2 and Order XXXVIII Rule 5 of the CPC seeking urgent ad-interim reliefs)

13. This is an application filed by the plaintiff under Order XXXIX Rules 1 and 2 CPC.

14. In view of the submissions made by learned counsels for defendant nos. 1, defendant nos. 2 and 3 with respect to pendency of its TEST. CAS

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23/2022, and TEST.CAS. 84/2024, the present application will be taken up after the pleadings are completed.

15. Learned counsel for defendant no. 1 states that defendant no. 1 is in possession of property no. M-251. So also, learned counsel for defendant nos. 2 and 3 states that they have been in settled possession of property no. M-249.

16. List before the learned Joint Registrar (J) on **18.07.2025**.

17. Subject to orders of Hon'ble the Judge In-Charge (Original Side), so as to avoid conflict of orders list this suit along with TEST.CAS 22/2023 and TEST.CAS 84/2024 before the same Bench on **24.09.2025**.

MAY 13, 2025/msh/akp

MANMEET PRITAM SINGH ARORA, J

Click here to check corrigendum, if any

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