$-

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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

\+ **CS(OS) 789/2025 and I.A. 27336/2025**

MRS. RATI SAHNI
WIFE OF MR. SHIV SAHNI
AND DAUGHTER OF MR. GANESH SETH
RESIDENT OF 24, THIRD FLOOR,
ANAND LOK, NEW DELHI-110049 .....PLAINTIFF

(Through: Mr. Amit Sibal, Sr. Adv with Mr. Amit Bhagat, Adv.)

Versus

MR. GANESH SETH
SON OF LATE MR. R.L. SETH
RESIDENT OF M-68, FIRST FLOOR,
GREATER KAILASH PART-I, NEW
DELHI-110048

MR. SALIL SETH
SON OF MR. GANESH SETH
RESIDENT OF M-68, FIRST FLOOR,
GREATER KAILASH PART-I, NEW
DELHI-110048

....DEFENDANTS

(Through: Mr. Anupam Srivastava, Sr. Adv with Ms. Mansi Jain and Mr. Parth Tanwar, Advs.)

% Reserved on: 09.12.2025
Pronounced on: 17.12.2025

JUDGMENT

I.A. 27335/2025 (FOR INJUNCTION UNDER ORDER XXXIX RULE 1 AND 2)

The suit is for partitioning of purported coparcenary properties belonging to Ganesh Seth and Son HUF *(the HUF)*.

2. The plaintiff is the daughter of defendant no. 1. Defendant no. 2 is her brother and defendant no. 1's son.

3. The case set up in the plaint is as follows:

3.1. Mrs. Shobha Seth, the mother of the plaintiff and defendant no. 2, passed away on 12.01.2024. Defendant no. 1 is the *karta* of the HUF, and the other parties are members thereof. Late Mrs. Shobha Seth too, was a member of the HUF during her lifetime.

3.2. Within the HUF, the plaintiff and the defendants form a coparcenary, which is possessed of various properties. Upon the demise of Mrs. Shobha Seth, the defendants started exerting pressure on the plaintiff and her family to relinquish their rights over the coparcenary/HUF property in favour of the defendants and have even got drafted a release deed, a family settlement agreement, affidavits, 'no objection' certificates, and other documents in this regard. The said documents included certain properties which stand in the individual names of the defendants, arousing suspicion in the plaintiff that they are also coparcenary/HUF properties.

3.3. The defendants also informed the plaintiff of Will dated 19.11.2012, purportedly executed by late Mrs. Shobha Seth under which all her movable and immovable properties, including her purported share in the coparcenary/HUF properties, were bequeathed to the defendants, to the exclusion of the plaintiff.

3.4. The land admeasuring 0.974 acres in the property bearing no. 85-A, Panchkuian Road, New Delhi-110001, *(the Panchkuian property)* formed the nucleus of the coparcenary. The Panchkuian property, originally, belonged to a larger coparcenary from which defendant no. 1 separated, along with defendant no. 2, by way of a compromise decree dated 02.04.1984 in Civil Suit No. 732 of 1983. Defendant no. 1 had undertaken to sell seventy-five per cent of the Panchkuian property to one Mr. Karam Chand Thapar *vide* Agreement to Sell dated 27.07.1987, and the same was sold as per the compromise decree dated 17.07.1992 in Suit No. 1373/1991 before this Court. Portions of the Panchkuian property remaining with the coparcenary are being let out to various tenants for commercial purposes, generating income.

3.5. The sale consideration received in respect of the Panchkuian property was used to purchase the residential house bearing no. M-68, First Floor, Greater Kailash Part-1, New Delhi-110048 *(the GK property)* in the name of defendant no. 1 *vide* Sale Deeds dated 10.06.1992 and 16.07.1992.

3.6. The coparcenary also had agricultural property admeasuring 20 kanal and 23 marla in Wazirpur, Gurgaon *(the Wazirpur land)*. In the year 2023, Defendant no. 1, *vide* Sale Deed dated 30.11.2023, and purportedly, acting as the *karta*, had sold a portion of the Wazirpur land to a third-party for a consideration of Rs. 16,00,00,000/- (Rupees Sixteen Crore only).

3.7. A partnership in the name and style of Salil Enterprises, wherein the defendants and Mrs. Shobha Seth were partners, and which carried on business from the Panchkuian property, was also set up using the funds derived from the nucleus of the coparcenary.

3.8. The coparcenary was possessed of various other movable and immovable properties. Schedule-I to the plaint, containing a list of the purported coparcenary properties, is extracted below, for reference:

> ***"SCHEDULE-I***
>
> ***A. IMMOVABLE PROPERTIES OF THE HUF:***
>
> *1. 85-A, Panchkuian Road, Rishyamook Building, New Delhi-110001*
> *2. House No. M-68, Greater Kailash Part-I, New Delhi-110048*
> *3. Property bearing No. 7, the Mall, Shimla*
> *4. Property bearing No. 26, the Mall, Shimla*
> *5. Residual Agricultural Land in Wazirpur, Gurgaon*
> *6. Commercial Space in Landmark Tower, Sector-15, NOIDA constructed by Aim Sanya Developers Pvt Ltd.*
> *7. Commercial property bearing Unit No. 10, 2nd Floor, DT City Centre, MG Road, Gurgaon*
> *8. Commercial Property bearing Unit No. 12-1202, 12th Floor, BPTP Centra One, Golf Course Extension Road, Sector-61,Gurgaon-122011*
>
> ***B. MOVABLE PROPERTIES OF THE HUF:***
>
> *I. BANK ACCOUNTS*
> *a. Account No. 8915 with the Bank of Tokyo Mitsubishi UFJ Limited New Delhi*
> *b. Account 910010000857647 with Axis Bank, Jhandewalan, New Delhi*
> *c. Account No. 31702595749 with State Bank of India*
> *d. Account No. 342601000796 with ICICI Bank, Taimoor Nagar, New Delhi*
> *e. Account No.635305000016 with ICICI Bank, The Mall, Shimla*
> *f. Account No.05022151002226 with Punjab National Bank, Panchkuian Road, New Delhi*
> *g. Account No.914010035398771 with Axis Bank, Jhandewalan, New Delhi*
> *h. Account No.77770195699 with ICICI Bank, Sunder Nagar, New Delhi*
>
> *II. PPF ACCOUNTS*

> *a. PPF A/c No. A-20463 with the Postmaster, Gole Dakhana, New Delhi*
> *b. PPF Account No.1146686301with Postmaster, New Delhi Post Office, Gole Dakkhana, New Delhi*
>
> *III. OTHER MOVABLE PROPERTIES*
> *a. Fixed Deposits with various banks and financial institutions*
> *b. Tax Saving Deposits with various banks and financial institutions.*
> *c. Investment in National Savings Certificate (NSC)*
> *d. Jewellery belonging to the HUF*
>
> *IV. BANK LOCKER*
> *a. Locker No. 7819-D, Delhi Safe Deposit Co. Limited, Janpath, New Delhi."*

4. The plaintiff has filed the present application seeking *ad-interim* injunction, restraining the defendants from alienating, encumbering, or parting with possession of all properties belonging to the HUF, and directing the defendants to deposit with the Court the plaintiff's share in the consideration received from any concluded alienation of properties belonging to the HUF and in the income of the HUF.

5. The defendants have filed their written statement jointly and set up their defence as follows:

5.1. Only some of the properties sought to be partitioned belong to the HUF. The rest are separate properties owned by the defendants in their individual capacities.

5.2. The Panchkuian property, the Wazirpur land, the property bearing no. 7, the Mall, Shimla (No. 7, the Mall), the commercial space booked in Landmark Tower *(the Landmark Tower property)*, the ICICI Bank account bearing no. 324601000796, the Axis Bank account bearing no. 910010000857647, the tax saving bonds and jewellery as disclosed in the balance sheet of the HUF for the financial year 2024-25, only belong to the HUF. Only some of the properties sought to be partitioned belong to the HUF. The rest are separate properties owned by the defendants in their individual capacities.

5.3. A portion of the Panchkuian property was sold by defendant no. 1, in his capacity as the *karta,* and the sale consideration received therefrom was utilised for the development of the unsold portion. No other property has been acquired using the said funds.

5.4. The area of Wazirpur land belonging to the coparcenary was originally, 21 kanal and 3 marla. A portion of the same was acquired by the Government, leaving 18 kanal and 6 marla, which was lawfully sold *vide* Sale Deed dated 30.11.2023. A substantial portion of the sale consideration received therefrom was reinvested in property bearing no. 7, the Mall, Shimla *(No.7, the Mall),* and the remainder was used to meet capital-gains tax liabilities, etc.

5.5. The GK property is owned by defendant no. 1 in his individual capacity, having purchased the same out of his own funds without any coparcenary funds.

5.6. The defendants, in their individual capacity, own fifty per cent of the property bearing no. 26, the Mall, Shimla *(No. 26, the Mall),* having been bequeathed the same by late Mr. Jeevan Lal Khanna *vide* Will dated 24.05.1990 and late Mr. Mohan Lal Khanna *vide* Will dated 30.06.2000.

5.7. The commercial property bearing Unit No. 10, Second Floor, DT City Center, MG Road, Gurgaon *(Unit No.10)* was the separate property of Mrs. Shobha Seth, and the same was sold by her in the year 2013. The sale proceeds therefrom were used in the purchase of the commercial property bearing Unit No. 12-1202, Twelfth Floor, BPTP Centra One, Golf Course Extension Road, Sector 61, Gurgaon-122011 *(Unit No. 12)*. Mrs. Shobha Seth, *vide* Will dated 27.12.2012, has bequeathed Unit No. 12 to defendant no. 2.

5.8. The other movable properties claimed to be of the coparcenary are joint/individual accounts standing in the names of the defendants individually.

5.9. All alienations of coparcenary property made by defendant no. 1 were in his capacity as the *karta*, and in the interests of the family.

5.10. In their affidavits of admission and denial, the defendants have admitted all documents produced along with the plaint, except the copy of Land Search Report dated 14.01.2025.

Submissions

6. Mr. Amit Sibal, learned senior counsel for the plaintiff, submits that all the suit properties belong to the HUF, and some of them were acquired using funds of the HUF. He further submits that defendant no. 1, as the *karta*, has been in breach of his fiduciary duty towards the HUF/coparcenary, by misappropriating and wasting its funds and properties. He asserts that the plaintiff had been kept in the dark with respect to the assets of the coparcenary/HUF, and no portion of the income generated therefrom has been shared with her.

7. He points out that a portion of the Panchkuian property was sold in the year 1992, at the same time as defendant no. 1's purchase of the GK

property in his individual name. He asserts that the same indicates that the sale proceeds from the Panchkuian property were used for acquiring the GK property.

8. He also asserts that the defendants have not frankly disclosed the complete particulars with respect to the Wazirpur land. While the defendants claim that a portion thereof had been acquired by the Government, no compensation was received. This, according to him, is indicative of the defendants' wastage of the HUF/coparcenary property.

9. He further submits that the acquisition of No. 7, the Mall was structured in two purchases; one portion was purchased in the name of the HUF at inflated rates, whereas, the other portion, having the highest commercial value, was acquired in the name of defendant no. 2's wife, at a much lower rate.

10. He also submits that the defendants deny the HUF/coparcenary nature of various movable properties that have been described so in the Will dated 19.11.2012. This, according to him, indicates that the defendants have resorted to concealment of the actual extent of the coparcenary/HUF properties with a view to depriving the plaintiff of her own share.

11. He places reliance on the decision of the Supreme Court in ***Angadi Chandranna v. Shankar and Ors.***[1]to submit that, having established the existence of a nucleus of the coparcenary/HUF properties, the burden of proving that a property is a separate property of a coparcener lies on the person asserting the same. Therefore, according to him, the burden of

[1]2025 INSC 532

proving that the suit properties are the separate properties of the defendants lies on the defendants.

12. Mr. Anupam Srivastava, learned senior counsel for the defendants, contraverts the aforesaid submissions and contends that the three essential ingredients for grant of injunction have not been made out by the plaintiff. According to him, the plaintiff has not disclosed any enforceable right in the suit properties, and therefore, there does not exist any *prima facie* case in her favour. He submits that the plaintiff has not pleaded particulars relating to the constitution of the HUF as mandated under Order VI Rule 4 of the Code of Civil Procedure *(the CPC)*. Reliance is placed on the decision of this Court in the case of ***Jiya Sharma and Ors v. Deepak Sharma and Ors.***[2] Further, relying on the decision of the Supreme Court in ***Sushil Kumar (Sunil) and Ors v. Ram Prakash and Ors,***[3]he submits that coparceners do not have a right to interfere with the management of the joint family affairs by the *karta.*

13. He further submits that the injunction sought would interfere with the lawful management of the coparcenary/HUF properties, impede commercial and tax compliance, and cause irreversible prejudice to the coparcenary/HUF, disproportionate to the plaintiff's apprehensions. He places reliance on the decisions in ***Sushil Kumar (Sunil) and Ors v. Ram Prakash and Ors, M.R.Vinoda v. M.S. Susheelamma (D) by L.Rs. and Ors***,[4]and ***Beereddy Dasaratharmi Reddy v. V. Manjunath and Another***[5] to

---

[2]2025:DHC:2499
[3] (1988) 2 SCC 77
[4]2021 INSC 878
[5](2021) 19 SCC 263

highlight the role of the *karta* in a coparcenary/HUF. According to him, in case injunction is not granted, the only prejudice that the plaintiff would suffer would be purely monetary. Therefore, he submits that the balance of convenience would tilt in favour of the defendants.

14. He further submits that under the Specific Relief Act, 1963, the Court is bound to refuse injunction where there exists an adequate alternative remedy, such as damages, rendition of accounts, or partition, as in the present case.

Analysis

15. It is undisputed that the parties herein constitute a coparcenary within the HUF, and that the HUF owned several movable and immovable properties.

16. A perusal of the application under Order XXIII Rule 3 of the CPC, bearing I.A. No. 1718/1984 in Civil Suit No. 732/1983, based on which the compromise decree dated 02.04.1984 was drawn, indicates that the Panchkuian property belonged to a larger coparcenary of which the defendants were a part. The rights of defendant no. 1's coparcenary in the said property stood crystallised at thirty-three per cent upon its partition. Thereafter, the Panchkuian property belonged to the coparcenary consisting of the parties herein. This property forms the nucleus of the coparcenary.

17. The Wazirpur land, admittedly, belonged to the HUF. Although it is not clear from the pleadings whether or not the same was 'coparcenary property' in its strict sense, the mere fact that the plaintiff is a member of the

HUF entitles her to a share in the HUF properties. Therefore, she had a vested interest in the Wazirpur property.

18. The GK property was purchased in the name of defendant no. 1 *vide* Sale Deeds dated 10.06.1992 and 16.07.1992 for a total sum of Rs. 18,00,000/- (Rupees Eighteen Lakh only), around the same time as the sale of a portion of the Panchkuian property. A perusal of the Agreement to Sell dated 27.07.1987 and the consent judgment and decree dated 17.07.1992 in Suit No. 1373/1991 indicates that defendant no. 1 received a sum of Rs. 1,48,66,600.- (Rupees One Crore Forty-Eight Lakh Sixty-Six Thousand and Six Hundred only) as consideration for the sale. It is trite law that once the joint nature of the family is admitted and the existence of a coparcenary nucleus is established, the burden of proving that a property is his self-acquired property lies on the person asserting the same. The Supreme Court, in ***Angadi Chandranna v. Shankar and Ors***, has held as follows:

> *"13. Further, it is a settled principle of law that there is no presumption of a property being joint family property only on account of existence of a joint Hindu family. The one who asserts has to prove that the property is a joint family property. If, however, the person so asserting proves that there was nucleus with which the joint family property could be acquired, then there would be presumption of the property being joint and the onus would shift on the person who claims it to be self-acquired property to prove that he purchased the property with his own funds and not out of joint family nucleus that was available. That apart, while considering the term 'nucleus' it should always be borne in mind that such nucleus has to be established as a matter of fact and the existence of such nucleus cannot normally be presumed or assumed on probabilities."*

19. In the present case, the sale of the Panchkuian property and the purchase of the GK property having been concluded around the same time, lends credence to the plaintiff's assertion that the GK property was acquired using coparcenary funds. The defendants have sought to justify their claims

by asserting that the sale proceeds from the Panchkuian property were used towards the development of the unsold portion thereof. However, they have not produced any document in support of the same. Therefore, *prima facie*, the GK property seems to have been acquired using coparcenary funds, and therefore, is coparcenary property.

20. As far as No. 7, the Mall, is concerned, it is pertinent to note that the same comprises of two distinct parts; one part, comprising of the entire basement, ground floor, second floor, and the attic, and the other part, comprising of the entire first floor. The defendants admit that the basement, ground, floor, second floor and the attic are HUF property. However, a perusal of Sale Deed dated 24.09.2024 bearing no. 524/2024 in Book-I in the registers of the Sub-Registrar, Shimla, indicates that the first floor in the said property was purchased in the name of one Mrs. Aparna Seth, W/o of Mr. Salil Seth. The plaintiff asserts that the said Mrs. Aparna Seth is the wife of defendant no. 2, and that the sale consideration for even the first floor was drawn from HUF funds. The aforesaid assertion does not seem to be improbable, and the possibility of the same having been acquired using HUF funds cannot be ruled out. Therefore, No. 7, the Mall, is presumed to belong to the HUF.

21. The defendants have produced Will dated 16.07.1990 executed by one Mr. Jiwan Lal Khanna, and Will dated 03.07.2000 executed by one Mr. Mohan Lal Khanna *vide* which, a total of fifty per cent share in No. 26, the Mall was bequeathed to the defendants herein. In both the instruments, the remaining half share in the property is stated to belong to M/s Shiv Charan Dass and Sons. Therefore, *prima facie,* fifty per cent of No. 26, the Mall

seems to be the separate property of the defendants, whereas, the remaining portion of the same seems to belong to a third-party. Therefore, the plaintiff, *prima facie,* does not have any interest in the said property.

22. The Landmark Tower property, admittedly, belongs to the HUF. Therefore, notwithstanding any lack of clarity as to whether the same belongs to the coparcenary or the HUF, since the plaintiff is a member of the HUF, she has a vested interest in the same.

23. The defendants claim that Unit No. 10 was a self-acquired property of Mrs. Shobha Seth and that from the consideration received from its sale in 2013, she purchased Unit No. 12. Thereafter, she is stated to have bequeathed the same to defendant no. 2, *vide* Will dated 19.11.2012. Mrs. Shobha Seth having been a member of the HUF, *prima facie,* Unit No. 12 too, seems to belong to the HUF.

24. As far as the movable properties are concerned, the defendants admit that Account No. 342601000796 with ICICI Bank, Taimoor Nagar, New Delhi, Account 910010000857647 with Axis Bank, Jhandewalan, New Delhi, Tax Saving Deposits with various banks and financial institutions aggregating to a value of Rs. 64,85,600/-, and jewellery aggregating to a value of Rs. 52,020/- belong to the HUF. The plaintiff, being a member of the HUF, would have an interest in the same. However, while the defendants deny that Account No. 8915 with the Bank of Tokyo Mitsubishi UFJ Limited, New Delhi, Account No. 31702595749 with State Bank of India, and PPF A/c No. A-20463 with the Postmaster, Gole Dakhana, New Delhi, belong to the HUF, the same are described as belonging to the HUF in the Will dated 19.11.2012. Further, the defendants also deny that Account

No.635305000016 with ICICI Bank, The Mall, Shimla, Account No.05022151002226 with Punjab National Bank, Panchkuian Road, New Delhi, Account No.914010035398771 with Axis Bank, Jhandewalan, New Delhi, Account No.77770195699 with ICICI Bank, Sunder Nagar, New Delhi, and PPF Account No.1146686301with Postmaster, New Delhi Post Office, Gole Dakkhana, New Delhi, belong to the HUF, all of the aforesaid accounts stand in the name of the defendants jointly, or individually. The Court therefore presumes that the same belong to the HUF. As such, *prima facie,* the plaintiff has an interest in the same.

25. To sum up regarding the status of the properties, it is found that out of the eight properties mentioned in Part A of Schedule-I, Unit No. 10 has already been sold. So far as the Wazirpur land is concerned, the defendants contend that a portion thereof was acquired by the Government, whereas the remaining portion has been sold lawfully, whereas, as per the plaintiff, a portion of the land still exists in the name of HUF. Needless to state that if any portion thereof remains, the same shall belong to the HUF. The defendants cannot have any objection to the same. As far as the rest of the properties are concerned, on an elaborate analysis, it is found that, presumably, they are either HUF properties or have been purchased from the funds of the HUF. This finding has been arrived at on the basis of the close proximity of the dates of purchase and sale of admitted HUF/coparcenary property and the properties standing in the name of the defendants, as has been discussed in the preceding paragraphs.

26. *Prima facie*, the plaintiff has interest in several of the suit properties as noted in the preceding paragraphs. However, at the moment, the plaintiff

is not using any of the suit properties for her habitation or personal benefit. They are commercial properties which have been purchased over a period of time to generate revenue. Further, the suit properties comprise mainly of movable/immovable properties, which, as per the plaintiff's own case, were not within her knowledge hitherto. Therefore, no irreparable injury that cannot be compensated in monetary terms can be said to be caused to the plaintiff, if the injunction sought is not granted. If the plaintiff ultimately succeeds in the suit, and the defendants alienate any of the suit properties during its pendency, the plaintiff would be entitled to her share in any amount received therefrom. The interests of the plaintiff can also be secured by directing the defendants to maintain records of each of the properties, including details of the income being generated and the mode of its utilization. Further, the defendants are already barred under Section 52 of the Transfer of property Act, 1882, from transferring or otherwise dealing with the properties in any manner as to affect the rights of the plaintiff, except with the authority of the Court.

27. To the contrary, if the injunction sought is granted, it will interfere with the rights of the *karta* of the HUF who, otherwise, in law is entitled to deal with the HUF properties for the benefit of coparcenary.

28. It is trite law that the Court may grant injunction, only if all the three requisites; *prima facie* case, irreparable injury, and balance of convenience are made out by the applicant. In the absence of even one of the three essential requirements, injunction cannot be granted. In the present case, the plaintiff has failed to establish that irreparable injury that cannot be compensated in monetary terms would be caused to her if the injunction

sought, is not granted. Therefore, the relief sought in the instant application cannot be granted as it is. However, the following directions are issued.

28.1. The records of each of the properties which are presumed, hereinabove, to belong to the HUF/coparcenary, including details of the income being generated therefrom, and the mode of its utilization shall be maintained by the defendants and shall be produces before the Court as and when directed to do so.

28.2. The defendants shall not transfer any of the properties which are presumed to belong to the HUF/coparcenary, except under the authority of the Court and on such terms as it may impose.

29. Accordingly, the application stands disposed of.

30. Needless to state that the observations herein are only the *prima facie* opinion of the Court, and must not be treated as adjudication on the merits of the matter.

I.A. 27336/2025 (FOR DISCOVERY AND PRODUCTION OF DOCUMENTS).

List on 02.03.2026 before the Joint Registrar for taking necessary steps in accordance with extant rules.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

DECEMBER 17, 2025
aks