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

+ **CS(OS) 967/2024**

SARITA DEVI

.....Plaintiff

Through: **Mr. Vinod Kumar and Mr. Shashank
Sharma, Advocates**

versus

SARASWATI DEVI & ORS.

.....Defendants

Through:

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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17.12.2024

**I.A. 47175/2024 (Application on behalf of the plaintiffs seeking exemption
from advance service to the defendants)**

1. Learned counsel for the plaintiff states that the defendants have been duly served. He states an affidavit of service also stands filed.

2. In view of the aforesaid averments, the application stands disposed of.

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3. This is a suit filed for declaration, permanent and mandatory injunction qua the estate of late Sh. Harvir Singh i.e., plot no. 47, ad-measuring 208.96 sq mts, Block-B, Sector 11, Dwarka Residential Scheme, Dwarka, New Delhi ('suit property').

3.1 It is stated that the suit property was purchased by the husband of the plaintiff late Sh. Harvir from DDA. It is stated that the plaintiff has learnt that the defendant no. 1, sister-in-law of the plaintiff has propounded a sale deed dated 05.08.2022 claiming title rights in the suit property. It is stated



that in the registered sale deed dated 05.08.2022, the vendor is shown as the defendant no. 1 and the vendee is also shown as the defendant no. 1.

3.2 It is stated that in the sale deed dated 05.08.2022, the defendant no. 1 has signed as a vendor acting in furtherance of an unregistered General Power of Attorney (GPA) dated 14.01.2003 purported to have been executed in her favour by late Sh. Harvir Singh. It is stated that admittedly late Sh. Harvir Singh has already passed away intestate on 28.12.2012 and upon his death GPA dated 14.01.2003 could not have been acted upon by defendant no. 1 in 2022. It is stated that no sale deed could have been executed relying upon the unregistered GPA dated 14.01.2003 on 05.08.2022.

3.3 It is stated that plaintiff is in actual physical possession of the suit property and in this regard, reliance has been placed on the order dated 14.11.2023 passed by the Sub-Divisional Magistrate, Dwarka.

3.4 The plaintiff also relies upon the Forensic Science Laboratory (FSL) report dated 24.01.2024 which examined the purported signatures of late Sh. Harvir Singh on the documents relied upon by the defendant no. 1 with his admitted signatures on the conveyance deed executed with DDA and has given its report that the signatures do not match. The FSL report has been filed by the police in the charge sheet filed in FIR no. 292/2023 filed against defendants no. 1, 2 and 3.

4. Let the plaint be registered as a suit.

5. None appears on behalf of the defendants despite advance service.

6. Summons be issued to the defendants by all permissible modes on filing of process fee. Affidavit of service be filed within one (1) week.

7. The summons shall indicate that the written statements must be filed within thirty (30) days from the date of receipt of the summons. The



defendants shall also file affidavits of admission/denial of the documents filed by the plaintiff, failing which the written statements shall not be taken on record.

8. The plaintiff is at liberty to file replications thereto within thirty (3) days after filing of the written statements. The replications 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. List before the learned Joint Registrar on **03.02.2025**.

12. List before the Court on **29.04.2025**.

I.A. 47174/2024 (Application under Order XXXIX RULE 1 & 2 r/w Section 151 CPC)

13. This is an application filed by the plaintiff under Order XXXIX Rule 1 and 2 Code of Civil Procedure, 1908 (CPC) seeking a restraint against defendants no. 1 to 3 from creating any third-party rights in the suit property relying upon the alleged sale deed dated 05.08.2022.

14. This Court has been informed that the original purported GPA dated 14.01.2003 and original purported Agreement to Sell (ATS) already stand seized by the police in FIR no. 292/2023.

15. The defendants are directed to place on record the original of the sale deed dated 05.08.2022 unless the same has been seized by the police.

16. In view of the facts noted hereinabove, the plaintiff has made out a



prima facie in her favour. Accordingly, defendants are restrained from creating any third-party rights in the suit property and acting in furtherance of the sale deed dated 05.08.2022 until the next date of hearing.

17. Issue notice.

18. Reply to the application be filed within 30 days. Rejoinder thereto, if any, be filed within 30 days thereafter.

19. Provisions of Order XXXIX Rule 3 CPC be complied with within one (1) week from today.

20. List before the learned Joint Registrar on **03.02.2025**.

21. List before the Court on **29.04.2025**.

22. 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
DECEMBER 17, 2024/N/sk

[Click here to check corrigendum, if any](#)