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

+ **CS(OS) 197/2016 & IA No.5285/2016 (u/O XXXIX R-1&2 CPC)**

RAJBIR SINGH

..... Plaintiff

Through: Mr. Vivek Singh, Adv.

Versus

TRILOK CHAND & ORS.

..... Defendants

Through: Mr. G.S. Singh, Adv. with D-4 in person.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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15.01.2019

1. The suit is ripe for framing of issues.
2. The counsel for the plaintiff has handed over proposed issues which are taken on record.
3. The counsel for the defendants has not brought any proposed issues.
4. On the pleadings and documents of the parties, the following issues are framed:

(I) Whether the document dated 2nd August, 2010 is the validly executed last Will of late Sh. Hansa? OPP

(II) Whether the defendants and/or the defendants No.1 & 4 obtained signatures on blank papers of late Sh. Hansa, claiming the same to be required for arranging the pension of Sh. Hansa from the Government, and have forged and fabricated documents relating to land of Sh. Hansa in Village Sabhapur, Delhi thereon? OPP

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(III) Whether the defendants have unauthorisedly trespassed on the land aforesaid of Sh. Hansa in the fourth week of September, 2014?

OPP

(IV) Whether Sh. Hansa in his lifetime had transferred the land aforesaid to defendant No.4 and executed Agreement to Sell, General Power of Attorney, Affidavit, Receipt, Possession Letter and Will, all dated 21st June, 2010 with respect to land in favour of the defendant No.4 and handed over possession of the land to defendant No.4 in consideration thereof? OPD

(V) Whether the document dated 21st June, 2010 purporting to be the Will of late Sh. Hansa is the validly executed last Will of late Sh. Hansa? OPD

(VI) If the above two issues are decided in favour of the defendants, what is the effect, if any, in law of the documents aforesaid? OPD

(VII) If all the above issues are decided in favour of the plaintiff and against the defendants, whether the plaintiff is entitled to any *mesne* profits / damages for use and occupation from the defendant and if so from which defendant/s and for what period and at what rate? OPP

(VIII) Relief.

5. It is made clear that no issues on the pleas of the defendants, of the present suit being barred owing to the earlier suit filed by the plaintiff; and, of the suit being overvalued are framed, finding the said pleas to be not substantial. The earlier suit, as per copy of the plaint produced by the defendants themselves, was for the relief of permanent and mandatory injunction restraining the defendants from entering in the land and/or from

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making any construction thereon and filing thereof cannot bar this suit for recovery of possession on the basis of title. Similarly, the plea of overvaluation by the plaintiff is without any particulars.

6. No other issue arises or is pressed.
7. The parties to file their list of witnesses within fifteen days.
8. Option given of having the evidence recorded on commission has been declined.
9. The plaintiff to file affidavits by way of examination-in-chief of his witnesses within six weeks.
10. List before the Joint Registrar on 11th March, 2019, for fixing the dates of trial.
11. The counsel for the defendants states that he is not opposing continuance during the pendency of the suit of the *ex-parte* ad-interim order dated 2nd June, 2016.
12. Accordingly, making the same absolute till the decision of the suit, IA No.5285/2016 is disposed of.

RAJIV SAHAI ENDLAW, J.

JANUARY 15, 2019

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