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

+ **CS(OS) 166/2025**

MS. AMITA J SINGH

.....Plaintiff

Through: Mr. Aman Nandrajog, Mr. Sumeer
Sodhi and Ms. Shreya Singh,
Advocates

versus

MS. AMISHA WALLIA & ANR.

.....Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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18.03.2025

I.A. 6920/2025 (for exemption)

1. This is an application filed by the plaintiff seeking exemption from filing dim, illegible, translated and typed copies of the documents, which have been filed with the suit.
2. Subject to the Plaintiffs filing fair typed, clear and legible copies of the dim documents within four weeks from today, exemption is granted for the present.
3. Accordingly, the captioned I.A stands disposed of.

I.A. 6921/2025 (for condonation of delay)

4. The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 ('CPC') seeking condonation of delay in re-filing the plaint.
5. For the reasons stated in the application, the application is allowed and the delay of 24 days in re-filing is condoned.



CS(OS) 166/2025

6. The present suit has been filed inter alia seeking a decree of partition of the estate of late Dr. Tegendra Singh Walia (deceased) as described in Schedule 'A' to the plaint.

7. At the outset, it is noticed that the Schedule 'A' enlists five (5) immovable properties, out of which one (1) is located within the territorial jurisdiction of Delhi, while two (2) immovable properties are located at Indore, one (1) immovable property each at Bangalore and United States of America ('USA') and one (1) property in Bangalore. The Plaintiff has sought to invoke jurisdiction of this Court by invoking Section 17 of CPC by relying on the fact that one of the immovable properties is situated at Delhi.

8. At the outset it is observed that this Court is not persuaded to hold that this Court has territorial jurisdiction to decide inter-se rights of the parties including partition qua the immovable property located at USA and therefore, the orders passed today shall not be applicable in respect to the said immovable property. So also, this Court is not considering the claim of the Plaintiff qua Australian Bank account at para 2 (j) of Schedule 'A'. In view the principles enshrined in Section 16 CPC it is the situs of the immovable property, which ordinarily governs the jurisdiction of the civil court. Moreover, in the facts of this case the Defendants are not the residents of Delhi and therefore the proviso to Section 16 CPC is also not attracted. For the same reason, Section 20(a) CPC is also not attracted in the facts of this case. The Plaintiff will be at liberty to approach the Court of competent jurisdiction for the relief sought with respect to the immovable property in USA and the bank account in Australia.



9. It is stated in the plaint that plaintiff herein is the legally wife of the deceased and defendant no's 1 and 2 are the children of the deceased from his first wife Ms. Rajni Walia.

10. It is stated that thus the plaintiff and defendant nos. 1 and 2 are the only Class-I legal heirs of the deceased, who died intestate and have therefore, succeeded in the ratio of 1:1:1.

11. Learned counsel for the plaintiff states that after the death of the deceased in the year 2019, parties have made an attempt to amicably distribute the estate and, in this regard, he relies upon the correspondence exchange between the parties during September-October, 2024.

12. He states, however, there is an impasse and parties have not been able to resolve the issue of distribution therein lies the necessity to institute the present suit. He states that the plaintiff remains ready and willing to consider mediation through the Court annexed Mediation Centre.

13. In view of the aforesaid submissions of the plaintiff, the defendants will be at liberty to move an appropriate application for seeking reference to the present proceedings to Delhi High Court Mediation and Conciliation Centre.

14. Let the plaint be registered as a suit. Summons be issued to the defendants by all permissible modes on filing of process fee. Affidavit of service be filed within two (2) weeks.

15. The summons shall indicate that the written statement(s) 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 statement(s) shall not be taken on record.



16. The plaintiff is at liberty to file replication(s) thereto within thirty (30) days after filing of the written statement(s). The replication(s) 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.

17. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

18. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

19. List before the learned Joint Registrar for completion of service on **03.04.2025**.

20. List before the Court on **23.07.2025**.

I.A. 6919/2025 (Under Order XXXIX Rule 1 and 2 CPC)

21. This is an application filed by the Petitioner under Order XXXIX Rule 1 and 2 CPC seeking a restraint against the defendants from selling, alienating, encumbering, parting, creating third party rights, or in any manner dealing with the estate of late Dr. Tegendra Singh Walia as described in Schedule 'A' to the plaint.

22. As noted above, the Plaintiff along with the Defendants is the Class-I legal heir of the deceased and is thus entitled to 1/3rd share in the suit properties. Even the legal correspondence exchange between the parties in 2024 acknowledges the right of the Plaintiff in the estate. The Plaintiff has placed on record along with the suit title documents pertaining to the immovable properties located in India. In these facts, the Plaintiff has made out a prima facie case for ad-interim injunction.



23. Until the next date of hearing, the parties are directed to maintain status quo *qua* title and possession with respect to the immovable properties set out in para 1(a)(i),(ii),(iii) and 1(b) of the Schedule A to the plaint, relevant portion reads as under:-

“1. Immoveable Properties

a. Deceased was the *absolute owner* of:

- i. 206, Saket Nagar Indore – 452001, admeasuring approximately 3200 sq. fts.
- ii. D 290, First Floor, Sarvodaya Enclave, New Delhi – 110017, admeasuring approximately 200 Sq. yds
- iii. Khasra No. 562, Dakachya, Tehsil – Sanwer, Indore – 453771, admeasuring approximately 10.40 Acres (4.209 hectares).

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b. Deceased was *part owner* holding a 50% share of Prestige Shantiniketan Crescent 4, Level 4, Unit No. 403, Whitefield Road, Mahadevapura P.O., Bangalore - 560048, admeasuring approximately 5000 Sq.”

(Emphasis supplied)

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

25. List before the learned Joint Registrar for completion of service on **03.04.2025.**

26. List before the Court on **23.07.2025.**

27. 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

MARCH 18, 2025/rhc/AKT