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

+ CS(OS) 268/2018, I.A. 7621/2018, I.A. 21883/2022, I.A. 22361/2022
I.A. 36445/2024 & I.A. 36906/2024

SH. PRAMOD KUMAR KHOSLAPlaintiff

Through: Mr. S. S Panwar, Ms. Nividita
Panwar, Mr. Ravi Panwar, Advs

versus

SH. PRAVEEN KUMAR KHOSLA & ORSDefendants

Through: Mr. Rajat Sharma, Adv. for LR's
of D-1 (through vc)
Mr. Wasim Khan, Mr. Zubair Ahmad
and Ms. Vanshi Pruthi, Advs. for D-2

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **15.04.2025**

I.A. 7621/2018 (Order XXXIX Rule 1 & 2 CPC by plaintiff)

1. The present suit has been filed seeking partition with respect to three immovable properties bearing nos. (i) G-1/15, Malviya Nagar, New Delhi-17 ('G-1/15'), (ii) JG-18, Khirki Extension, Malviya Nagar, New Delhi ('JG-18') and (iii) JH-38, Khirki Extension, Maiviya Nagar, New Delhi ('JH-38')
2. Learned counsel for defendant no. 2 states that the property G-1/15 was the self-acquired property of late Smt. Kamla Devi Khosla (mother of the parties) and the said property has devolved upon defendants by virtue of a Will dated 26.09.2006.
3. With respect to the property JG-18, learned counsel for the defendants



states that the defendants are claiming ownership rights in the said property by virtue of customary documents i.e., Agreement to Sell (ATS), GPA, Will etc.

4. With respect to property JH-38, learned counsel for defendant no. 1 states that the defendants are claiming rights in the said property by virtue of customary documents ATS, GPA, Will etc.

5. He states that the plaintiff is in part possession of the properties i.e. JH-38 and JG-18.

6. Learned counsel for the plaintiff states that he disputes the Will dated 26.09.2006 relied upon by the defendants. He states that the plaintiff relies upon the Will dated 07.07.2006 executed by late Smt. Kamla Devi.

7. He states that the defendants have not placed on record the primary documents which forms the basis of the further inter-se exchange of the title in JG-18 and JH-38. He states that the plaintiff is entitled to a share in all the three properties.

8. This Court has considered the submissions of the parties.

9. In view of the fact that the plaintiff is in possession of JG-18 and JH-38 and the defendants can't dispute that plaintiff would be entitled to share in G-1/15, in case late Kamla Devi would have died intestate; and the Will dated 26.09.2006 relied upon by the defendants is yet to be proven at trial, therefore, the parties are directed to maintain status quo qua the title, possession with respect to all the three suit properties i.e., G-1/15, JG-18 and JH-38 until final disposal of the suit.

10. With the aforesaid directions, the application stands disposed of.

I.A. 22361/2022 (on behalf of defendant no. 1's legal heirs under Order VIII Rule 1A read with section 151 CPC, for filing of additional documents)



11. This is an application filed by the legal heirs of defendant no. 1 for placing on record additional documents.

12. Learned counsel for the plaintiff states that these documents have no concern with the reliefs sought in the main suit. He further states that he does not admit to the genuineness of these documents.

13. This Court has considered the submissions.

14. In view of the fact that the documents pertain to the subject premises [JG-18 and JH-38] which are the subject matter of the suit and reflect the inter-se transactions between the legal heirs of defendant no. 1 and defendant no. 2, therefore, the said documents are permitted to be taken on record.

15. The legal heirs of defendant no. 1 will, however, prove the said documents in accordance with law and also established their relevancy to the present proceedings at trial.

16. The application is disposed of.

I.A. 36906/2022 (on behalf of defendant no.2 under Order VIII Rule 1A(3) read with section 151 CPC, for filing of additional documents)

17. This is an application filed by defendant no. 2 for placing on record additional documents.

18. Learned counsel for the plaintiff states that these documents have no concern with the reliefs sought in the main suit. He further states that he does not admit to the genuineness of these documents.

19. This Court has considered the submissions.

20. In view of the fact that the documents pertain to the subject premises [JG-18] which are the subject matter of the suit and reflect the inter-se



transactions between the legal heirs of defendant no. 1 and defendant no. 2, therefore, the said documents are permitted to be taken on record.

21. The defendant no. 2 will, however, prove the said documents in accordance with law and also established their relevancy to the present proceedings at trial.

22. The application is disposed of.

I.A. 36445/2024 (under Section 151 of CPC on behalf of legal heirs of defendant no. 1 since deceased and already on record for directions)

23. This is an application filed by the legal heirs of defendant no. 1 seeking permission to construct the staircase in G-1/15 from outside.

24. Learned counsel for the plaintiff and defendant no. 2 states that they are not agreeable to the construction of any staircase. Learned counsel for the plaintiff states that in any event, the proposed staircase will be impermissible and illegal as per the by-laws.

25. This Court has considered the submissions of the parties.

26. In addition to the fact that the construction of the staircase has not been sanctioned by the municipal authority, moreover, in view of the fact that there are serious disputes with respect to the title of G1/15, therefore, this Court finds no ground for permitting the construction of the staircase.

27. The captioned application is, accordingly, dismissed.

I.A. 21883/2022 (under Order VI Rule 17 CPC read with Section 151 of CPC for amendment of the written statement on behalf of legal heirs of defendant no. 1)

28. This is an application filed by the legal representatives of defendant no. 1 seeking to amend the written statement filed by defendant no. 1 along with defendant nos. 2 and 3 during his lifetime.



29. The application seeks to amend the written statement on the basis of the alleged documents executed in favour of legal heirs of defendant no. 1.

30. In the considered opinion of this Court, the said amendments are not relevant for deciding the disputes, which have been pleaded by the plaintiff in the present suit. The inter-se disputes between the legal heirs of defendant no. 1 and defendant no. 2 is a separate cause of action and the same cannot be made subject matter of the present suit; as it would embarrass the trial and delay adjudication. The applicant/legal heirs of defendant no. 1 will have to file a separate suit for adjudication of their inter-se disputes with defendant no. 2.

31. In the application qua the plaintiff, the applicant/legal heirs of defendant no. 1 have proposed amendment to paragraph 13 and paragraph 10 of para-wise reply to the written statement on merits. A perusal of the proposed amendments vis-à-vis the plaintiff and the averments in the application fails to explain how these amendments are relevant for deciding the real questions in controversy in the suit. (Re: **Revajeetu Builders and Developers vs. Narayanaswamy and Sons and Ors.**¹)

32. The written statement was filed in the file on 29.10.2018 by deceased defendant no. 1. The said defendant passed away on 17.04.2020 and his legal representatives were brought on record. The legal representatives of defendant no. 1 cannot set at naught the legal process by filing the amendment application at this belated stage.

33. Accordingly, the application is dismissed.

CS(OS) 268/2018

¹[(2009) 10 SCC 84 at paras 63 and 64]



34. List before the Joint Registrar (J) for completion of admission/denial of documents on **13.05.2025**.

35. 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.

APRIL 15, 2025/msh/ms

MANMEET PRITAM SINGH ARORA, J

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