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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 2552/2014, CC 32/2015, 2/2023, I.As. 3270/2015, 14719/2015, 16251/2015, 21879/2015, 6219/2016, 14286/2018, 3544/2019, 10203/2020, 13977/2023, 14502/2023**

MANJIT SINGH KOCHHAR Plaintiff
Through: Mr Gurbir Singh Raikhy, Advocate
(M: 9810062742).

versus

HARJIT SINGH KOCHHAR & ORS. Defendants
Through: Mr. Siddharth Yadav, Sr. Advocate
with Mr. Narender Lodiwal,
Advocate for D-1.
Ms. Arti Singh and Mr. Aakashdeep
Singh Roda, Advs. for D-3 (M:
9899838859).
Mr. Pratyush Sharma and Mr. Sahil
Azam, Advs. for D-5.
Mr. Gautam Dembla and Mr Rishi
Gautam, Advs for D-6 (M:
9711007941).

+ **TEST.CAS. 57/2014**
DRA MOUNTFORD Petitioner
Through: Mr. Wasim Ashraf, Advocate (M:
9910681789).

versus

STATE GOVERNMENT OF NCT OF DELHI Respondent
Through: Mr. Narender Lodiwal, Advocate for
R-2.
Mr. Pratyush Sharma and Mr. Sahil
Azam, Advs. for R-4 (M:
9711744465).



CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% 05.04.2024

1. This hearing has been done through hybrid mode.

I.A. 16251/2015 (u/O VII Rule 11 CPC) & I.A. 21879/2015 (u/O VI Rule 17 CPC) in CS(OS) 2552/2014

2. The present suit and testamentary case relate to disputes between the three sons of Late Sh. Manohar Singh Kochhar. The testamentary case being **Test. Cas. 57/2014** has been filed by the Petitioner- DRA MOUNTFORD, who is the executor, seeking grant of probate in respect of the registered Will dated 18th March, 2003 executed by the Testator- Late Sh. Manohar Singh Kochhar.

3. The suit being **CS(OS) 2552/2014** is for declaration, permanent injunction, rendition of accounts and partition of the assets of Late Sh. Manohar Singh Kochhar. The parties in the suit are:

- Sh. Manjit Singh Kochhar - son
- Sh. Harjit Singh Kochhar - son
- Sh. Gauravjit Singh Kochhar - grandson
- Sh. Guljit Singh Kochhar - son
- Sh. Arjun Singh Kochhar – grandson

4. Apart from the suit, counterclaims have been filed by Defendant Nos. 5 and 6 being **CC 32/2015** and **CC 2/2023**. The immovable assets are:

- i) E-24, Connaught Place, New Delhi
- ii) 71, Sunder Nagar, New Delhi
- iii) Willow Bank Estate, Shimla

5. In these two applications *i.e., I.A. 16251/2015 and I.A. 21879/2015* ,



the following order was passed on the last date:-

“7. There are several applications pending. Today, submissions have been heard partly on the following four applications:

- i) **I.A.3270/2015***
- ii) **I.A.14719/2015***
- iii) **I.A.16251/2015***
- iv) **I.A. 21879/2015***

*8. All of these applications are broadly disputes involving Defendant No.1 and Plaintiff on one hand, and Plaintiff and Defendant No.5 on the other hand. In the application under Order VII Rule 11 CPC i.e., **I.A.16251/2015**, rejection of the counterclaim is sought on the ground that no challenge can be raised in respect of the Willow Bank Estate and Willow Bank Cottage situated at the Mall, Shimla, Himachal Pradesh on the ground of acquiescence and waiver. It is also argued that the counterclaim is barred by limitation.*

*9. **I.A.21879/2015** is an application for amendment under Order VI Rule 17 CPC, filed by the counter-claimant-Guljit Singh Kochhar, seeking to amend the counterclaim, to add a ground of challenge to the gift deed dated 19th March, 1986, through which it is alleged that the father is stated to have gifted the said Willow Bank Estate in favour of Plaintiff and Defendant No.1.*

*10. **I.A. 3270/2015** and **I.A. 14719/2015** are applications under Order XXXIX Rule 1 and 2 CPC and Order XXXIX Rule 4 CPC respectively.*

11. Today, part submissions have been made on behalf of Defendant No.1 by Mr. Yadav, Id. Senior Counsel and by Mr. Sharma, Id. Counsel on behalf of Defendant No.5. The submissions are inconclusive.

12. One possible course of action for these four applications is to allow the amendment to the counterclaim while leaving open the objections of the Plaintiff and Defendant No.1 to be taken in the



amended written statement to the amended counterclaim. In addition, ld. Senior Counsel Mr. Yadav submits that he ought to be permitted to seek rejection of the amended counterclaim, which has not yet been filed, by moving a fresh application under Order VII Rule 11 CPC. On this issue, let the ld. Counsels seek instructions.

13. Ld. Counsel for Defendant No.5 is agreeable to the suggestion that a fresh application under Order VII Rule 11 CPC be filed, in respect of the amended counterclaim, so long as the trial is not derailed in any manner.”

6. Both Mr. Yadav and ld. Counsel for Defendant No. 5 are agreeable that the counterclaim may be permitted to be amended and a fresh application under Order VII Rule 11 CPC can then be filed by Defendant No. 1.

7. Accordingly, both these applications are disposed of directing that **I.A. 21879/2015** is allowed. The counter-claimant Guljit Singh Kohchar is permitted to add a ground of challenge to the gift deed dated 19th March, 1986 in the counterclaim.

8. The amendment in the counterclaim is allowed. The amended counterclaim is taken on record. The amended written statement is permitted to be filed by the Plaintiff as also all the other Defendants, who wish to oppose the counterclaim.

9. Such Defendants are also permitted to take their objections under Order VII Rule 11, if any, in the amended written statement or by way of a separate application.

10. Applications are disposed of.



I.A. 6219/2016 (for direction) in CS(OS) 2552/2014

11. Mr. Yadav, Id. Counsel for Defendant No.1 wishes to withdraw this application wherein his client is praying for reimbursements for maintenance of the property, with liberty to file a fresh application giving the up to date reimbursements to be sought. The application is dismissed as withdrawn with liberty as sought.

I.A. 14286/2018 (for additional docs.) in CS(OS) 2552/2014

12. This is an application filed by the Plaintiff to place a copy of the original gift deed dated 19th March, 1986 on record. Considering the fact that the said gift deed is now being challenged by way of amended counter claim by Defendant no.5, which has been permitted today, the copy of the gift deed is taken on record. Let the said document and the site plan attached to this application along with it be moved to the documents folder. At the relevant point of time if the Plaintiff is called upon to produce the original of this gift deed he will do so.

13. Application is disposed of.

I.A. 3544/2019(for directions) in CS(OS) 2552/2014

14. This application is disposed of as the same is infructuous.

I.A. 13977/2023 (for direction) in CS(OS) 2552/2014

15. This is an application seeking permission to renew the lease deed in favour of the tenant for a further period of three years from 1st August, 2023 in respect the first floor of the property bearing no. 71, Sunder Nagar, New Delhi. The lease deed is stated to be expiring on 31st July, 2023.

16. In terms of order dated 11th April, 2023, it was directed that permission of the Court would have to be sought for the purpose of registering any new tenant in the first floor of the property. Accordingly, the



present application has been moved. Accordingly, Defendant No.10 is permitted to renew the tenancy for a further period of three years *i.e.*, for a period till 31st July, 2026, with effect from the date when the earlier tenancy agreement expired, subject to the same conditions as were imposed vide order dated 18th May, 2015.

17. Application is disposed of. The registered lease deed upon execution shall be placed on record within four weeks.

CC 2/2023 in CS(OS) 2552/2014

18. Issue summons to Plaintiff and all the other Defendants. Summons is accepted by Id. Counsel for the Plaintiff and the remaining counsel for the Defendants who are present. Let written statement be filed within the timelines and procedure prescribed in law.

19. List before Court on 10th July, 2024.

CS(OS) 2552/2014 in I.A. 10203/2020 (stay) & I.A. 14502/2023 (for clubbing)

TEST.CAS. 57/2014

20. Let the decisions which the Defendant No.1 wishes to rely upon be placed on record along with an advance copy to Defendant No.6 within four weeks.

21. List before the Joint Registrar on 22nd April, 2024.

22. List these applications for hearing on 10th July, 2024 in terms of paragraph 17 of order dated 19th January, 2024.

PRATHIBA M. SINGH, J.

APRIL 5, 2024

mr/ks