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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(OS) 3644/2014

BHUMITRA JINDAL & ANR Plaintiffs

Through: Mr. Sudhir Nandrajog, Senior
Advocate with Mr. Pramod Dayal,
Advocate.

versus

BRAHAM TEJ MITTAL & ANR Defendants

Through: Mr. Vikas Bharti, Advocate for D-1.
Mr. Arvind Dua, Advocate for D-2
with Defendant No.2 in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **06.07.2018**

**I.A. 15645/2016 (Application under Order 39 Rules 1&2 151 CPC for
ad-interim injunction in respect of movable assets)**

1. On 1st December, 2014, this court had passed an interim injunction in
the following terms. The order reads as under:

“IA Nos.23762/2014 & 23763/2014 (Exemption)

*The applications are allowed subject to the
plaintiffs filing legible original/certified copies of the
documents within six weeks from today.*

The applications stand disposed of.

**CS(QS) 3644/2014 & IA No.23761/2014 (u/O XXXIX
R 1&2)**

*On the plaintiffs taking steps within two weeks,
summons in the suit and notice in the captioned
application be issued to the defendants by all
permissible modes, returnable on 6th July, 2015.*

*Written statement/reply be filed within four
weeks from the date of service. Replication/rejoinder
(if any) thereto be filed within two weeks thereafter.*

In the meantime, to protect the interest of the



2025 JUN 26 09:38

plaintiffs, the defendants are restrained from selling, transferring, alienating or otherwise parting with the possession and creating any third party interest in the immovable property of suit property bearing House No.15/60, Punjabi Bagh, New Delhi only till the next date of hearing.

Compliance of Order XXXIX Rule 3 CPC be made by the plaintiffs within three days.

To be listed for disposal of the captioned IA.”

2. This order was made absolute on 15th February, 2017. Subsequently, the present application came to be moved by the Plaintiff seeking an injunction in respect of the movable assets mentioned in paragraph 7 of the application. On 28th February, 2018, this court had granted an order of status quo in respect of movable assets and it was directed that none of the parties *‘shall deal with the said assets or interfere or part with the same’*. The said order is made absolute during the pendency of the present suit.

3. I.A. is disposed of.

CS(OS) 3644/2014

4. The counsel for the Plaintiff submits that the matter can be heard and disposed of without oral evidence under Order XII Rule 6. However this is disputed by the counsel for the Defendants who does not agree for this course of action as oral evidence would be required to be adduced as there are no admissions.

Accordingly, the following issues are framed:

- i) Whether the Plaintiffs are entitled to the partition of the estate/ moveable and immoveable assets of Late Sh. Nar Shardul Mittal and Smt. Ram Dulari Mittal? If so, to what extent? OPP
- ii) Whether the alleged Will purportedly executed by Sh. Nar



Shardul Mittal is valid and enforceable, if so, to what effect?
OPD

- iii) Whether the documents dated 17th December, 2011 and declaration dated 21st January, 2003 are legally valid and enforceable? OPD
- iv) Whether the Plaintiffs are guilty of suppression and concealment of material facts? OPD
- v) Relief.

5. List of witnesses be filed within four weeks. Evidence by way of affidavit be filed within 8 weeks by the Plaintiffs.

6. Evidence in affirmative shall be first filed by the Plaintiffs. Defendants will thereafter lead evidence in defence as also in respect of issues onus of which is upon them. The court would thereafter consider if the Plaintiffs are to be permitted to lead rebuttal evidence.

7. The evidence shall be recorded on a day to day basis by a Local Commissioner. Smt. Bimla Maken, (Retd. ADJ) is appointed as Local Commissioner. The fees of the Local Commissioner is fixed at Rs. 11,000/- (apart from out of pocket expenses) per sitting of at least two hours each. LC fees and expenses for arranging the venue and for arranging production of the record shall, shall be initially borne by the Plaintiff. The electronic records of the case shall be made available to the Local Commissioner and to the parties.

7. List before the Local Commissioner on 5th September, 2018.

PRATHIBA M. SINGH, J.

JULY 06, 2018

Rekha