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

+ **RFA 968/2016**

AMRIK SINGH RATHORAppellant

Through: Mr. Gurvinder Singh, Adv.

versus

RANJIT KAUR (DECEASED) THR LRS & ORS

.....Respondents

Through: Mr. Harsh Vardhan Sharma,
Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **22.08.2024**

CM APPL 49679/2023

1. Heard.
2. Learned counsel appearing on behalf of respondent No.3 submits that the husband of respondent No.3 has expired and she wishes to settle abroad with her children. According to him, on an undertaking given by the said respondent on 24.01.2018, she is unable to dispose of the suit property. He, therefore, prays that the undertaking recorded in the order dated 24.01.2018 be allowed to be withdrawn.
3. The aforesaid submission is opposed by learned counsel appearing on behalf of the appellant. He submits that no details of the proposed buyer etc. have been placed on record and in the absence of which, the Court should not accede to the prayer by respondent No.3.
4. I have heard the learned counsel appearing for the parties and perused the record.



5. The Court has also considered the findings given by the trial court while dismissing the suit of the present appellant. Paragraphs Nos.34 and 35 of the impugned judgment/decreed read as under:-

“34. Ld. Counsel for plaintiff sought much of the reliance from the admission of DW-2 that she left India after the death of her father-in-law when there was no such risk of change in the gift deeds in question. The said statement is required to be read with the other deposition of DW-2 applying principal of harmonious construction. She through out asserted that she was the one, taking care of her in-laws and even was looking after the medical treatment provided to her father-in-law. The suggestion put by counsel for plaintiff to DW-2 regarding her having left India after the death of her father-in-law when there was no risk for change in gift deeds, therefore, could not be interpreted as her purpose of getting the gift deed of property in her favour accomplished. Had it been so, DW-2 in fact, would have been diligent enough in negating the said suggestion put to her, instead of answering the question with honesty in consonance with the other answers whereby she admitted regarding the visits of plaintiff to India and active contribution in the last rites and rituals of defendant no. 1 when no one objected to the presence of plaintiff at that time.

35. Considering the facts and circumstances of case i.e. no evidence being on record Regarding the deceased's mental facilities and rationality having been affected to understand the consequences of execution of gift deeds in favour of defendants no. 2 and defendant no. 3, Witnesses corroborating the factum of execution of gift deeds. Deceased mother of parties supporting the defence of defendants and denying the case of plaintiff. Circumstances suggesting the wish of deceased father for execution of gift deeds in favour of defendants no. 2 & defendant no. 3 who were taking care of him and his wife, Both the issues are answered against the plaintiff and in favour of defendants.”

6. Looking at the controversy involved in the instant appeal, and considering the overall facts and circumstances of the case, the Court deems it appropriate to modify the order dated 24.01.2018 to the extent of granting liberty to the respondent to dispose of the property, subject to placing on record the details of the proposed buyer before this Court.

7. It is, however, directed that no sale deed shall be executed unless further permission from the Court is sought for.

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



CM APPL 23160/2024

List on 03rd December, 2024.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 22, 2024

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