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

+ **CS(OS) 2122/2015 & CC 79/2016, I.A.No.7603/2017**

HARJIT KAUR

..... Plaintiff

Through

Mr.N.S.Dalal with Mr.Devesh Pratap
Singh, Advocates.

versus

SHANKAR MUKHERJEE

..... Defendant

Through

Mr.Kapil Gupta with Ms.Muskan
Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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05.09.2018

Today the statement of the defendant-Mr.Shankar Mukherjee has been recorded. He is directed to produce the requisite documents on or before 03rd December, 2018.

List on 19th December, 2018 for arguments.

MANMOHAN, J

SEPTEMBER 05, 2018

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CS(OS)No.2122/2015

Statement of Mr.Shankar Mukherjee S/o late Sh.Suresh Chandra Mukherjee, R/o 401, Krishna Balaji Co-operative Housing Society Ltd., Khandelwal Layout, Evershine Nagar, Malad (W), Mumbai- on SA

Q: Is it correct that a registered General Power of Attorney dated 09th August, 1977 was executed by your father Sh.S.C.Mukherjee in favour of the plaintiff?

A: Yes.

Q: Is it correct that on the basis of the registered General Power of Attorney dated 09th August, 1977, the plaintiff raised the construction over the suit property from her own funds?

A: Yes.

Q: Are you in possession of the original registered general power of attorney dated 09th August, 1977 executed by your father?

A: Yes.

Q: Are you in possession of original title documents with regard to the suit property i.e. B-399, C.R.Park, New Delhi?

A: Yes.

Q: Are you in possession of the original allotment letter and original lease deed with regard to the suit property?

A: Yes.

Q: Can you produce these documents?

A: Yes. (The deponent is directed to file the said documents on or before 03rd December, 2018).

Q: Was any written communication/letter exchanged between you, your father and the plaintiff with respect to the suit property?



A: No.

Q: Are you in possession of the original registered Will dated 09th July, 1985 executed by your father?

A: I can't remember right now.

Q: Were you a witness to your father's registered Will dated 09th July, 1985?

A: No.

Q: Did your father receive any money from the plaintiff in 1985?

A: I am not aware.

Q: Can you give the details of the bank accounts which your father maintained in the year 1985?

A: Union Bank of India, Salt Lake Branch, Kolkatta.

Q: Do you have statements of the bank accounts of your father for the year 1985?

A: I have to look for the same. In the event I am in possession of the same, I shall produce them on or before 03rd December, 2018.

Q: Is it correct that the suit property is assessed to house tax/property tax?

A: Yes.

Q: Did your father pay the house tax after 1977? Also did you pay the house tax post death of your father in 1995?

A: I am not aware. (After some thought, the deponent states that he has not paid any property tax with regard to the suit property).

Q: When did you become aware that the plaintiff had carried out construction in the suit property?

A: Around the same time when the plaintiff started construction in 1977.



Q: Did your father file any case against the plaintiff?

A: No.

Q: Why did your father not file a case between 1977 to 1995 against the plaintiff?

A: I came to know in 2012 when I applied for the conversion of the suit property that the suit property had already been converted in the name of the plaintiff. Prior thereto, I thought that the plaintiff was in possession of the suit property on account of mutual trust and faith and that she will never claim ownership of the property.

Q: According to you, in what capacity was the plaintiff occupying the suit premises between 1977 to 2012?

A: On sheer trust and faith.

Q: Is it your case that the plaintiff had been appointed as a caretaker of the suit property?

A: Yes

Q: Are there any documents with regard to the appointment of plaintiff as a caretaker of the suit property?

A: I am not aware.

Q: Did you and your father pay any consideration to the plaintiff for being appointed as a caretaker?

A: I have not paid any amount to the plaintiff for being appointed as a caretaker. I am not aware whether my father had paid any amount to the plaintiff for being appointed as a caretaker.

Q: After 1977, when did you first claim possession from the plaintiff?

A: In 2012.

Q: Why not earlier than 2012?



- A: I was posted in Mumbai and was busy in my own work.
- Q: Between 1995 to 2012, in what capacity was the plaintiff, according to you, occupying the suit property?
- A: Purely mutual trust and faith.
- Q: What do you mean by mutual trust and faith?
- A: As there was no written agreement, the understanding was as and when I need to sell the property, the plaintiff will not claim anything.
- Q: Is the plaintiff related to you?
- A: No.
- Q: After the death of your father, did you assert your ownership with regard to the suit property prior to 2012?
- A: No.
- Q: Did you apply for mutation of the suit property after the death of your father?
- A: Yes.
- Q: When?
- A: In 2012.
- Q: Why do you think that the plaintiff invested money in carrying out construction if she had to return the possession to you?
- A: In 1977 we were not in a good financial position to construct the suit property and, at that time, if construction was not carried out within a stipulated time period, the plot was liable to be forfeited/resumed.
- Q: Do you know one Mr.Madan?
- A: No.
- Q: Are you aware that Mr.Madan was a witness to the registered GPA, SPA and Will all dated 12th July, 1985?



A: No.

Q: Did your father or you have any other transactions with regard to any land, immovables etc. with the plaintiff?

A: No.

Q: Did you file CS(OS) No.2764/2012 before this Court?

A: Yes.

Q: Did you challenge the order dismissing the said suit?

A: Yes, I challenged that order by way of an appeal. (After sometime, the deponent states that he did not appeal against the said order).

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MANMOHAN, J

SEPTEMBER 05, 2018