

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

CS/136/2023

KAILASH NEVATIA
-VS-
SHIV KUMAR NEVATIA AND ANR

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: September 11, 2024.

Appearance:

Mr. Nirmalya Dasgupta, Adv.

Mr. Dibanath Dey, Adv.

Ms. Pallavi Pain, Adv.

...for the plaintiff

Mr. Shraman Sarkar, Adv.

...for the defendants

The Court : Mr. Nirmalya Dasgupta, learned advocate, is appearing for the plaintiff.

Mr. Shraman Sarkar, learned advocate, is appearing for the defendants.

Learned counsel appearing for the defendants submits that Mr. Tarafdar, who regularly appears for the defendants, is not well and as such he is not present before this Court today.

Counsel for the plaintiff has handed over a communication dated 20th August, 2024 signed by Mr. Tarafdar sent to the learned advocate on record of the plaintiff stating that he is unable to disclose the following documents :-

- a. The copy of the rest receipts issued by Kailash Nevatia in respect of the Suit premises being 76, Bentick Street, Kolkata-700001;

- b. The copies of the complaints of eviction suits and rent fixation proceedings;
- c. The copy of the probate application being PLA No.368 of 2007.

Counsel for the plaintiff submits that though the defendants have disclosed Xerox copy of the documents but could not disclose the original documents and as such the inspection could not be carried out.

As per the letter dated 20th August, 2024, it is found that the original documents are not with the defendants and could not be disclosed to the plaintiff for inspection. As such, this Court is closing the opportunity for disclosing the original documents for inspection by the defendants.

In terms of the order dated 8th August, 2024, the matter is fixed today for 'Framing of Issues'. No suggested issues have been filed by the defendant. Counsel for the plaintiff has submitted the suggested issues.

Considering the prayer made by the counsel for the parties, perusing the suggested issues of the plaintiff and the pleadings, following issues are framed :-

:- I S S U E S :-

- 1.- Whether the plaintiff is entitled to 2/3rd share and/or interest in respect of the property being situated at 76, Bentinck Street, Police Station- Bowbazar, Kolkata- 700001?
- 2.- Whether the plaintiff is entitled to 1/3rd share and/or interest in respect of the property situated at 123A, Lenin Sarani, Kolkata- 700013?

3.-Whether the plaintiff is entitled to the accounts in respect of the rents and/or usufruct being collected by the defendants?

The plaintiff is directed to file the Judge's Brief of Documents within two weeks after serving copy to the learned counsel for the defendants.

List the matter on 20th November, 2024 at 2:00 pm. for witness action of the plaintiff's witness.

(KRISHNA RAO, J.)