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

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*Judgment reserved on: 10.09.2025**Judgment pronounced on: 16.09.2025*

+ RFA(OS) 6/2023, CM APPL. 18300/2023, CM APPL. 27861/2023 & CM APPL. 40311/2023

SUKHBIR SINGH CHOUDHARY AND ANRAppellants

Through: Mr. Manish Sangwan, Adv.
with A-2 in-person.

versus

RAJINDER PERKASH CHOUDHARY & ANR.

.....Respondents

Through: Mr. Rakesh Kumar and Mr.
Sunil, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellants assail the correctness of order dated 03.03.2023 [hereinafter referred to as "Impugned Order"] passed by the learned Single Judge, whereby Review Petition No. 539/2019 filed by the Appellants [Defendants before the learned Single Judge] in CS (OS) No. 406/2018 was dismissed. *Vide* the Impugned Order, the learned Single Judge has declined to review the earlier Order dated 23.10.2019 passed in I.A. No. 9834/2019, whereby a preliminary decree for partition of the property admeasuring 400 sq. yds. bearing No.C-10/3, Vasant Vihar,

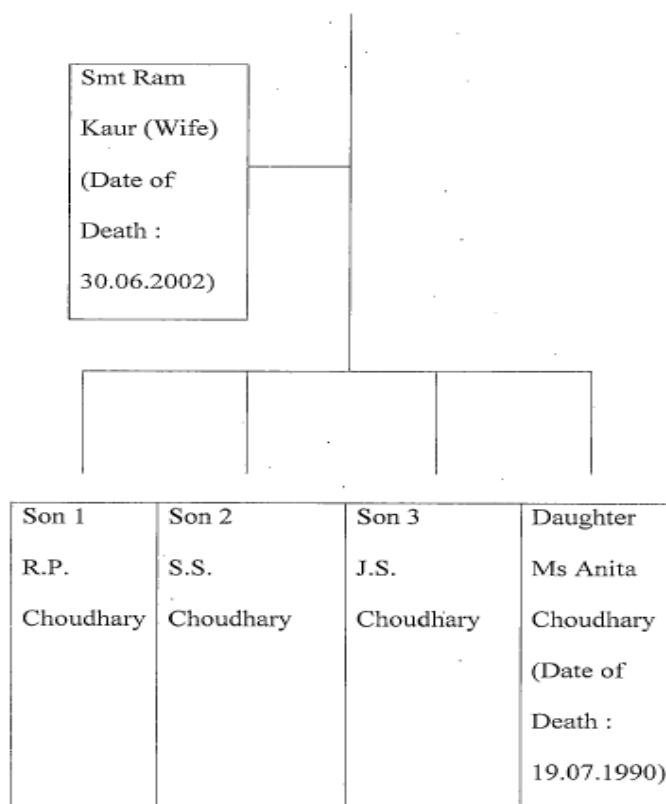


New Delhi [hereinafter referred to as 'suit property'], was granted in favor of the Respondents [Plaintiffs before the learned Single Judge], declaring them one-third owners (each) of the suit property. The said order dated 23.10.2019 is also under challenge in the present Appeal.

FACTUAL MATRIX

2. In order to comprehend the issues involved in the present case, the relevant facts in brief are required to be noticed.
3. The genealogy of the family is as under:

Late Mir Singh (Date of Death : 12.04.1984)



4. Late Sh. Mir Singh, the father of the parties, had acquired the suit property through his own funds under a perpetual sub-lease deed



dated 06.09.1968. He expired intestate on 12.04.1984, leaving behind three legal heirs, namely the two Respondents and Appellant No.1/Defendant No.1. The suit property was thereafter mutated in their joint names by the Delhi Development Authority ('DDA') on 22.12.2003. The Respondents instituted CS (OS) No. 406/2018 on 14.08.2018 seeking partition and declaration of their shares. The said suit was contested by the Appellants on various grounds, *inter alia*, disputing the entitlement of the Respondents. Upon consideration of the pleadings, the learned Single Judge, by order dated 23.10.2019 in I.A. No. 9834/2019, held that since the suit property had devolved upon the parties by way of intestate succession, each of them was entitled to one-third share therein, and accordingly passed a preliminary decree.

5. The Appellants initially filed RFA(OS) 92/2019 challenging the aforesaid preliminary decree, but the said appeal was unconditionally withdrawn on 22.11.2019. Thereafter, the Appellants filed Review Petition No. 539/2019 assailing the preliminary decree on the ground that the Respondents had executed a Relinquishment Deed dated 28.08.2017 in favour of Appellant No. 1 and had thus divested themselves of any right in the suit property. The learned Single Judge, however, by the Impugned Order dated 03.03.2023, dismissed the review petition holding that the alleged relinquishment deed was neither registered nor valid in law, and therefore could not alter the devolution of rights by intestacy.

6. Aggrieved thereby, the Appellants have preferred the present Appeal challenging both the preliminary decree dated 23.10.2019 and



the order dated 03.03.2023 dismissing their review petition.

7. At this stage, it is relevant to notice the interim directions issued by this Court in the present Appeal. On 17.04.2023, the Predecessor Bench passed the following order:

“RFA(OS) 6/2023 & CM APPLN. 18300/2023 (u/O XLI RULE 5 r/w SEC. 151 CPC)

3. The present appeal is preferred against the order dated 03.03.2023 in Review Petition No. 539/2019 and against the order dated 23.10.2019; passed in CS (OS) No. 406/2018.

4. Learned counsel appearing on behalf of appellants submits that the Review Petition was necessitated as the learned Single Judge while passing the impugned decree dated 23.10.2019 has ignored the material facts with regard to authenticity of the Memorandum of Oral Partition, and the Relinquishment Deed; as well as failed to appreciate pendency of IPA No. 12/2020 and two suits filed by the parties in respect of suit property being C-10/3, Vasant Vihar, New Delhi.

5. Notice issued.

6. Mr. Mudit Sharma, Advocate, appearing on behalf of the respondents accepts notice and submits that the appeal be heard on merits, however, out of the three floors in the suit property, appellants be directed to vacate the two floors, including the basement.

7. After due deliberations with parties, appellant No.2, who is present in the Court, undertakes on instructions from his father i.e. appellant No.1, that the ground floor and the second floor of the property shall be vacated within four weeks from today.

8. The aforesaid undertaking furnished by appellant No.2 on his behalf as well as his father -appellant No.1, is taken on record.

9. To ascertain the compliance of aforesaid undertaking, Mr. Anant Vikram Singh, Advocate (Mobile:7066344100), who is present in the Court, is appointed Court Commissioner, who shall visit the subject property i.e. C-10/3, Vasant Vihar, New Delhi on 17.05.2023 and seal the ground and second floor of the property on the said day. The Local Commissioner shall photograph and videograph the process of handing over and sealing of the subject premises and for this purpose, he is at liberty to hire services of an independent professional Photographer.

10. The learned Court Commissioner deposit the keys with the Registrar General of this Court within a week of executing the



commission.

11. The learned Court Commissioner shall file a report before this Court, along with photographs and videography, within a week thereafter, however, shall not share the same with any of the parties.

12. Both sides are at liberty to be present at the site on the said day to observe the proceedings conducted by the Court Commissioner. Parties are expected to be peaceful and non-interfering.

13. The learned Court Commissioner is directed to seek Police assistance. The SHO concerned is directed to provide necessary Police assistance.

14. The fee of the learned Court Commissioner is fixed at Rs.50,000/- in addition to out of pocket expenses which shall be equally borne by the appellants and the respondents.

15. It is agreed between both the sides that during pendency of the present petition, they shall take adjournments before the learned Single Judge.

16. Renotify on 03.08.2023.

17. In the meanwhile, both sides shall file brief written submissions, along with copies of relevant citations relied upon in support of their case for the assistance of this Court, while exchanging copies with side opposite within four weeks."

8. The Appellants thereafter filed an application seeking modification of the order dated 17.04.2023. However, the said application was dismissed.

9. Subsequently, Appellant No.1 moved CM APPL. 27861/2023 seeking permission to place on record additional evidence/documents. In the said application, it was contended that Appellant No.1 is suffering from dementia and, therefore, sought to rely upon certain letters dated 20.10.1966 and 08.01.1976, as well as an alleged Family Settlement/Deed of Partition dated 21.11.2000. It was claimed that these documents would demonstrate that the suit property exclusively belongs to the Appellants. The Respondents have filed a detailed reply opposing the said application.



CONTENTIONS OF THE APPELLANTS

10. Learned counsel for the Appellants submits that the suit itself is not maintainable as it suffers from the vice of *partial partition*. It is urged that the Respondents deliberately omitted several other joint properties from the array of suit properties. In the Written Statement filed before the learned Single Judge, the Appellants disclosed a list of 19 such properties which, according to them, formed part of the joint family corpus.

11. Learned counsel further contends that CM Appl. 27861/2023 deserves to be allowed, inasmuch as Appellant No.1, being a senior citizen suffering from dementia, had inadvertently failed to place on record the Deed of Partition earlier. It is urged that the said document goes to the very root of the matter, and in the interest of justice, the Appellants ought to be permitted to prove the same by way of additional evidence.

12. It is further submitted that the alleged Deed of Partition dated 21.11.2000 has been duly acted upon by the parties, inasmuch as certain other joint properties were transferred in terms thereof. Hence, the document cannot be brushed aside at this stage, and due effect must be given to the arrangement recorded therein.

CONTENTIONS OF THE RESPONDENTS

13. *Per contra*, learned counsel for the Respondents submits that the alleged Deed of Partition dated 21.11.2000 relied upon by the Appellants is a fabricated and unregistered document, produced with



the intention of delaying or circumventing the rightful partition of the suit property.

14. Learned counsel further submits that the suit property originally belonged to late Sh. Mir Singh, who died intestate on 12.04.1984, and devolved equally upon the three legal heirs, namely the two Respondents/Plaintiffs and Appellant No.1/Defendant No.1. Accordingly, the preliminary decree dated 23.10.2019 correctly recognized each party as one-third owner of the suit property.

15. It is contended that the Appellants' contentions regarding partial partition of other joint family properties or the alleged Deed of Partition dated 21.11.2000 are irrelevant in respect of the suit property, which is self-acquired and not part of any larger corpus of ancestral property.

16. Learned counsel further submits that the Appellants' attempt to produce additional evidence at this stage is belated and would prejudice the Respondents, particularly as the preliminary decree has been passed and acted upon.

ANALYSIS & FINDINGS

17. We have heard learned counsel for the parties and, with their able assistance, perused the paperbook along with the record of the learned Single Judge.

18. The first matter for consideration is CM APPL. 27861/2023 filed by the Appellants seeking permission to place on record additional evidence, namely the alleged Family Settlement/Deed of



Partition dated 21.11.2000.

19. On careful examination, it appears that CM APPL. 27861/2023 has been filed primarily with the intent to delay the disposal of the present Appeal and the partition of the suit property. The reasons for arriving at this conclusion are as follows:

i. Late Sh. Mir Singh only had leasehold rights to the suit property. Following his death, all three sons applied for conversion of the property into freehold, which was granted by DDA. Pursuant thereto, a Conveyance Deed was executed in favour of all three sons on 23.04.2014.

ii. Upon the intestate demise of Sh. Mir Singh, the property was mutated in the joint names of his three sons in the year 2003.

iii. On 01.08.2014, all three sons executed a Collaboration Agreement with a builder for reconstruction of the suit property, acknowledging their joint ownership and specifying the respective shares in the reconstructed property.

iv. Appellant No.1 filed a suit for specific performance and declaration on 14.01.2020 but did not claim that any part of the suit property had devolved exclusively upon him under the alleged Deed of Partition.

v. Appellant No.1, himself, is a signatory to the alleged Deed of Partition. Yet, for over two decades, the alleged Deed of Partition was neither produced in the suit nor relied upon in any prior proceedings before the Court or before any authority. The Deed has never been



presented to any revenue authority and has not been referred to in any contemporaneous record.

vi. *Vide* order dated 17.04.2023, the Appellants were directed to handover vacant possession of ground and second floors of the suit property. Instead of complying, the Appellants firstly filed an application seeking recall of the said order; secondly a Special Leave Petition before the Supreme Court, and subsequently CM APPL. 27861/2023 in May 2023.

vii. While filing the Review Petition before the learned Single Judge, the Appellants never asserted the existence of any Deed of Partition/Family Settlement. The Review Petition was based solely on the alleged Relinquishment Deed dated 28.08.2017 filed by the Respondents.

viii. On the direction of this Court, the original Deed of Partition was produced by the Appellant No.2, which has been retained by this Court. The alleged Deed of Partition is neither registered nor witnessed by marginal witnesses. It has been executed on an old plain paper, raising serious doubts as to its authenticity, not professionally scribed and potentially capable of having been created at any time.

20. Ordinarily, Courts should adopt a liberal approach in granting permission to lead additional evidence. However, in the present circumstances, CM APPL. 27861/2023 *prima facie* appears to have been filed with a *mala fide* intent to delay the disposal of the present Appeal. Such attempts should not be appreciated and must be dealt with firmly, as the Court cannot remain a passive observer to efforts



aimed at obstructing the timely administration of justice.

21. The Appellants/Defendants, for the first time, in May 2023 contended that the Deed of Partition was executed between the three sons and their mother. The Court finds this claim unconvincing in light of the belated and inconsistent production of the document. CM APPL. 27861/2023 is accordingly dismissed. The Appellants, however, remain at liberty to pursue remedies based on the alleged Deed of Partition, if permissible in law.

22. The contention that the suit is bad for partial partition, because all other properties were previously partitioned, is without merit. The suit is specifically for partition of the suit property, which is self-acquired by late Sh. Mir Singh and distinct from any other family properties.

23. The Appellants' disclosure of 19 joint properties is also factually incorrect, as it includes self-acquired properties, indicating an attempt to mislead the Court and delay proceedings.

24. The submission of learned counsel for the Appellants regarding transfer of property based on the Deed of Partition dated 22.10.2000, rather than 21.11.2000, is devoid of substance. It is, in fact, the case of the Respondents that the Appellants, with a view to delay the disposal of the matter, have fabricated the Deed of Partition dated 21.11.2000 by incorporating certain clauses from the Deed of Partition dated 22.10.2000.

25. The original Deed of Partition dated 21.11.2000 was retained by



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this Court. The Appellants are entitled to its return. Prior to returning the same, the Registry is directed to scan and upload the original Deed of Partition dated 21.11.2000 into the case file so that it remains part of the record.

26. In view of the aforesaid discussion, the present Appeal, along with all pending applications, is dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 16, 2025/jai/pl