

# Umang Sharma vs Rashi Sharma & Ors on 29 January, 2019

**Author: Manmohan**

**Bench: Manmohan**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ CS(OS) 52/2019  
UMANG SHARMA ..... Plaintiff  
Through Mr.Prag Chawla with Mr.Saurabh  
Shokeen, Advocates.  
versus  
RASHI SHARMA & ORS. .... Defendants  
CORAM:  
HON'BLE MR. JUSTICE MANMOHAN  
ORDER

% 29.01.2019 Keeping in view the averments made in the application, plaintiff is exempted from filing the typed/clearer copies of the documents at this stage.

Needless to say, this order is without prejudice to the rights and contentions of the parties.

Accordingly, present application stands disposed of. CS(OS) 52/2019 Let the plaint be registered as a suit.

Issue summons in the suit to the defendants by all modes including dasti, returnable for 05th March, 2019 before the Joint Registrar for completion of service and pleadings.

The summons to the defendants shall indicate that a written statement to the plaint be positively filed within four weeks of the receipt of the summons. Liberty is given to the plaintiff to file a replication within two weeks of the receipt of the advance copy of the written statement.

The parties shall file all original documents in support of their respective claims along with their respective pleadings. In case parties are placing reliance on a document which is not in their power and possession, its detail and source shall be mentioned in the list of reliance which shall be also filed with the pleadings.

Admission/denial of documents shall be filed on affidavit by the parties in accordance with the Delhi High Court Rules.

List the matter before Court on 08th April, 2019.

Issue notice to the defendants by all modes including dasti, returnable for 05th March, 2019 before the Joint Registrar.

It is pertinent to mention that present suit has been filed for partition and permanent injunction with regard to the following properties:-

(a) Property No. 237B (Ground Floor) DDA Flats, Green Apartments, Rajouri Garden, New Delhi - 110027, admeasuring 90 sq mtrs (hereinafter referred to "Suit Property");

(b) Saving Bank Account: 90302010012850 (PAN No AKJPS0461Q) with Syndicate Bank, Dhaura Kuan Branch.

(c) Saving Bank Account: 629301517455 & Demat Account IN30302862791425, with ICICI Bank, Rajouri Garden, Delhi In the plaint it is stated that the plaintiff and defendant no. 1 are children of late Col. M.S. Sharma. It is stated that the plaintiff and defendant no. 1 are brother and sister and defendant nos. 2 and 3 are banks with which the late father of the plaintiff and defendant no. 1, held bank accounts.

It is stated that the Suit Property was purchased by the late father of the plaintiff and defendant no. 1 vide sale deed dated 09 th April, 2013.

It is stated that the mother of the plaintiff and defendant no. 1 was not keeping good health and expired on 21st May, 2017. It is further stated that the father of the plaintiff and defendant no. 1 died intestate on 19th December, 2018 leaving behind the plaintiff and defendant no. 1 as his heirs.

Learned counsel for the plaintiff states that as per the Indian Succession Act, 1925, the estate of late Col. M.S. Sharma, fell to the share of all his aforementioned legal heirs in equal share i.e. in the ratio of 50% each. It is stated that the plaintiff and defendant no. 1 are now the co-owners of the Suit Property and other assets left behind by their deceased father.

Learned counsel for the plaintiff state that after the demise of late Col. M.S. Sharma, the defendant no. 1 has refused to talk to the plaintiff, stating that the plaintiff should not contact her. He further states that seeing the attitude of the defendant no.1 after the demise of the father of the plaintiff and defendant no. 1, the plaintiff apprehends that the defendant no. 1 may under the influence of someone, create a third party right in the Suit Property, thereby denying the plaintiff of his inheritance.

Keeping in view the aforesaid, this Court is of the view that there is a prima facie case in favour of the plaintiff and against the defendants. The balance of convenience is also in favour of the plaintiff and an irreparable harm and injury would be caused to the plaintiff if an interim order as prayed for is not granted.

Consequently, till further orders, parties are directed to maintain status quo with regard to title and possession of the Suit Property.

Defendant nos. 2 and 3 are further restrained from operating / transacting following bank accounts of the Late Col. M.S. Sharma:-

a. Saving Bank Account: 90302010012850 (PAN No AKJPS0461Q) with Syndicate Bank, Dhaula Kuan Branch b. Saving Bank Account: 629301517455 & Demat Account IN30302862791425, with ICICI Bank, Rajouri Garden, Delhi. Let the provisions of Order XXXIX Rule 3 CPC be complied within a week of this order.

Order dasti under the Signature of the Court Master.

MANMOHAN, J JANUARY 29, 2019 KA