

# Pramod Kumar Jain vs Shri Vijay Kumar Jain & Ors on 23 December, 2020

**Author: Rajiv Shakdher**

**Bench: Rajiv Shakdher**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS)No.449/2020 & I.A.Nos.12548-49/2020

PRAMOD KUMAR JAIN

Through :

Mr. Pankaj Jain, Adv.

versus

SHRI VIJAY KUMAR JAIN & ORS.

....Defen

Through : Mr. Dhruv Kapur and Mr. Vijayen  
Kumar, Advs. For D-2.

Mr. Dev Rishi, Mr. Maharshi Kal  
and Mr. Himanshu Nagpal, Advs.  
D-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER  
ORDER

% 23.12.2020 [Court hearing convened via video-conferencing on account of COVID-19]

1. Allowed, subject to the plaintiff filing the original documents as and when he is directed to do so by this Court.

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2. This is a partition suit which is said to be pivoted on a purported registered Will dated 14.07.1999 said to have been executed by the mother of the parties i.e. Smt. Sushila Devi Jain.

3. Mr. Pankaj Jain, who appears on behalf of the plaintiff, says that Smt. Sushila Devi Jain expired on 25.01.2002.

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3.1 According to Mr. Jain, the suit properties devolved herein, absolutely, albeit, as joint owners. 3.2 Mr. Jain says that it is in this background that the instant suit has been filed.

3.3 To be noted, Mr. Dhruv Kapur, Advocate, has entered appearance on behalf of defendant no. 2. Likewise, Mr. Dev Rishi, Advocate, has entered appearance on behalf of defendant no. 3.

3.4 As would be evident, defendant no. 1 is not represented today. 3.5 However, Mr. Dhruv Kapur has drawn my attention to the list of dates which is suggestive of the fact that defendant no. 1 was instrumental in furnishing, a copy of the aforementioned Will as also the relinquishment deed dated 10.06.1999, executed by the sisters of the parties, to the plaintiff. 3.6 Mr. Kapur says that what is not disclosed in the plaint is that the parties have entered into a memorandum of family settlement dated 01.09.2017 [in short "MoFS"].

3.7 It is submitted by Mr. Kapur that the parties have already acted upon the MoFS.

4. Given these circumstances, issue summons in the suit and notice in the captioned application.

5. Mr. Dhruv Kapur accepts service on behalf of defendant no. 2 while Mr. Dev Rishi accepts service on behalf of defendant no. 3.

6. The written statement and reply to the captioned application will be filed by defendant nos. 2 and 3 within three weeks from today. Replication(s) and rejoinder(s) thereto, if any, will be filed before the next date of hearing.

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7. Since Mr. Kapur says that defendant no. 2 is in the custody of one of the counterparts of the aforesaid MoFS, he will file the same with the Registry.

7.1 The Registry will place the MoFS, for the moment, in a sealed cover.

8. In the meanwhile, summons in the suit and notice in the captioned application shall issue to defendant no. 1 via all means including e-mail.

9. List before the Joint Registrar (Judicial) on 11.01.2021 for completion of service and pleadings as also for admission/denial of documents.

10. List the matter before court on 11.02.2021.

RAJIV SHA

DECEMBER 23, 2020

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[Click here to check corr](#)

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