

Raj Kumari Chhibber & Anr vs Naresh Kumar Chhibber on 28 February, 2022

Author: Amit Bansal

Bench: Amit Bansal

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 120/2022

RAJ KUMARI CHHIBBER & ANR.

Through:

Mr. Shivom Garg and M
Verma, Advocate.

versus

NARESH KUMAR CHHIBBER

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% 28.02.2022 I.A. No. 3317/2022(for exemption)

1. Subject to the plaintiffs filing the true typed copies, clear and legible copies of any dim documents on which the plaintiffs may seek to place reliance, within four weeks from today, exemption is granted for the present.

2. The application is disposed of.

CS(OS) 120/2022

3. Let the plaint be registered as a suit.

4. Issue summons in the suit through all permissible modes.

5. The written statement shall be filed within thirty days from the receipt of summons. Along with the written statement, the defendant shall also file an affidavit of admission/denial of the documents of the plaintiffs.

6. Liberty is granted to the plaintiffs to file replication to the written statement within fifteen days from the receipt of the written statement.

Along with the replication filed by the plaintiffs, an affidavit of admission/denial of the documents

of the defendant, be filed by the plaintiffs.

7. List before the Joint Registrar on 13th May, 2022 for completion of service and pleadings.

I.A. No. 3316/2022(O-XXXI R-1 & 2 of CPC)

8. The present suit has been filed seeking a decree of partition and permanent injunction in respect of property No. 105, Uday Park, New Delhi (suit property).

9. The property in question originally belonged to Late Smt. Tara Devi, mother-in-law of the plaintiff no. 1 and mother of the defendant, who died intestate on 4th July, 1974.

10. In 2005, the property was converted into freehold and conveyance deed was executed by Delhi Development Authority in the joint name of the husband of the plaintiff no.1 and the defendant. The husband of the plaintiff no.1 and the defendant jointly entered into a collaboration agreement with the builder for construction of the suit property in terms of the first floor of the suit property bearing the share of the builder. Husband of the plaintiff no.1 expired in 2019, after which the plaintiffs no.1 and 2 became joint owners of the suit property along with the defendant.

11. The defendant has already filed one civil suit for partition only in respect of the third floor of the suit property, which is pending before the Additional District Judge, South Saket Courts, New Delhi.

12. The plaintiffs claim ownership rights in the entire property and seek partition thereof.

13. In my view, prima facie case is made out in favour of the plaintiffs for grant of ex parte ad interim injunction. Balance of convenience is in favour of the plaintiffs. Irreparable harm and injury would be caused to the plaintiffs if third party rights are created in the suit property. The suit property has to be preserved till the adjudication of the present suit.

14. Issue notice through all permissible modes.

15. Reply be filed within four weeks.

16. Rejoinder, if any, be filed within two weeks thereafter.

17. List before the Court on 20th July, 2022.

18. Consequently, till the next date of hearing, status quo with regard to the title and possession shall be maintained in respect of the suit property.

19. Compliance under Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) be done within three days.

AMIT BANSAL, J FEBRUARY 28, 2022 Sakshi R.