

Ms Charu Agrawal vs Mr Alok Kalia & Ors on 18 April, 2022

Author: Sanjeev Sachdeva

Bench: Sanjeev Sachdeva

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CS(OS) 214/2022 & I.A. 5935/2022
MS CHARU AGRAWAL

Through:

Mr. Ashis
Kapur, Ad

versus

MR ALOK KALIA & ORS.

Through:

Ms. Suruc
Mr. Bhagw
Sharvan K
D-6.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA
ORDER

% 18.04.2022 Exemption is allowed, subject to all just exceptions.

CS(OS) 214/2022

1. Plaintiff be registered as a suit.

2. Issue summons. Notice is accepted by learned counsel appearing for defendants No.3 & 6 and defendant No.5.

3. Notice shall issue to defendants No.1, 2 and 4 returnable before the Joint Registrar on 20.07.2022

4. Plaintiff seeks a declaration that plaintiff is owner of five-twelfth Digitally Signed Digitally Signed By:KUNAL SACHDEVA MAGGU CS(OS) 214/2022 Signing Date:18.04.2022 1 Signing Date:19.04.2022 13:37:40 21:59 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

share of property bearing number A268, Shivalik, New Delhi besides one- third of all the movable and immovable assets left behind by the deceased mother. Plaintiff also seeks partition of the subject property. Plaintiff impugns the conveyance deed dated 22.06.2000, executed by the Union of India in favour of the deceased mother of the plaintiff. Plaintiff further impugns the gift deed executed in favour of defendant No.1.

5. As per the plaintiff, the subject property was allotted by way of a perpetual sub-lease dated 22.10.1990 in favour of Sh. Surender Nath Kalia, the father of plaintiff and defendants No.1 and 2. Sh. Surender Nath Kalia is alleged to have expired on 13.05.1992 intestate and on his death, his wife i.e., Mrs. Krishna Kalia and plaintiff and defendants No.1 and 2 were the only surviving legal heirs.

6. Learned counsel submits this fact is further fortified by a relinquishment deed dated 29.06.1993, registered by defendant No.1 in favour of his mother, wherein it is acknowledged that the property was leased out to their father and that he had expired intestate.

7. Learned counsel submits that without the knowledge of the plaintiff, a conveyance deed was got executed on 22.06.2000 in favour of the mother as if she was the original allottee.

8. Learned counsel submits that at no point of time was the plaintiff ever put to notice about the said factum. He submits that consequently on the death of her father, she became owner of the subject property having therein a one-fourth share.

9. Further, it is contended that the mother was, on account of medical reason, incapable of executing a registered gift deed and as such on her Digitally Signed Digitally Signed By:KUNAL SACHDEVA MAGGU CS(OS) 214/2022 Signing Date:18.04.2022 2 Signing Date:19.04.2022 13:37:40 21:59 This file is digitally signed by PS to HMJ Sanjeev Sachdeva.

demise, her one-fourth share has also devolved on the plaintiff and her two children.

10. It is contended that the defendants No. 1 and 2 are likely to create third party rights in the suit property thereby depriving the plaintiff of her share.

11. I am satisfied that plaintiff has made out a prima facie case for grant of an ad-interim injunction, balance of convenience is also in favour of the plaintiff and in case ex-parte ad-interim injunction is not granted, plaintiff is likely to suffer irreparable loss.

12. Issue Notice returnable before the Court 16.08.2022.

13. Till the next date of hearing, defendants, particularly, defendants No.1 and 2 are restrained from selling, alienating, parting with or creating any third-party rights or changing the nature and title of the suit property.

14. Order XXXIX Rule 3 be complied with within two days.

15. Dasti under signatures of the Court Master.

APRIL 18, 2022

NA

Digitally Signed By:KUNAL

MAGGU

CS(OS) 214/2022

Signing Date:19.04.2022 13:37:40

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