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# Preliminary Judicial Note: Raj Pal Sharma v. Devinder Kumar & Ors.

## ## Case Summary

- \* **Court:** Hon'ble Court of Shri Devender Kumar Jangala, District Judge, Dwarka Court, New Delhi
- \* **Case Number:** CS DJ ADJ 546/2025
- \* **LDOH:** 14-10-2025
- \* **NDOH:** 15-11-2025

## ### Parties

- \* **Plaintiff:** Raj Pal Sharma (Father)
- \* **Defendants:**
  - \* Devinder Kumar (Son)
  - \* Uma Devi (Daughter-in-law)

## ### Property in Dispute

- \* RZ-P-8/225, P Block, West Sagarpur, New Delhi-110046

## ### Timeline of Events

- \* **Prior to 1979 & 1992:** Two properties purchased, measuring 110 sq. yards.
- \* **Smt. Saroj Devi's Death:** 23-03-2020 (Wife of Plaintiff, Mother of Defendant No. 1)
- \* **Relinquishment Deed:** 27-06-2022 (Executed by four children of the Plaintiff, EXCEPT Defendant No. 1)
- \* **Complaint to DM South West:** 13-09-2023 (By Raj Pal Sharma seeking eviction of Devinder Kumar and Uma Devi)
- \* **DM South West Order:** 11-07-2024 (Dismissed Plaintiff's complaint, characterizing it as a domestic dispute)
- \* **Civil Suit Filed:** 11-05-2025 (By Raj Pal Sharma seeking eviction, permanent injunction, and mesne profits)
- \* **Written Statement by Defendants:** 14-10-2025
- \* **Affidavits by Defendants:** 14-10-2025

## ### Plaintiff's Claims

- \* Eviction of Defendants (Son and Daughter-in-law) from the second floor of the property.
- \* Permanent Injunction restraining the defendants from creating third party rights
- \* Mesne Profits.
- \* Defendants are "mere licensees" and their possession is "permissive".
- \* Defendants are harassing and quarreling with the Plaintiff.
- \* Defendants are illegally occupying the property.

## ### Defendants' Defense

- \* **Maintainability:** Suit not maintainable due to lack of jurisdiction, res judicata, and abuse of process.
- \* **Co-ownership:** Defendant No. 1 (Devinder Kumar) is a co-owner of the property with a 1/6th undivided share, inherited from his mother (Late Smt. Saroj Devi). He did not sign the relinquishment deed. One co-owner cannot evict another co-owner in a simple eviction suit.
- \* **Shared Household:** Defendant No. 2 (Uma Devi) has a right to reside in the property as it is her matrimonial home and a "shared household" under the Protection of Women from Domestic Violence Act,

2005.

- \* **Prior Adjudication:** The matter was already decided by the District Magistrate, who dismissed the Plaintiff's eviction complaint.
- \* **Abuse of Process:** The suit is an abuse of the process of law, intended to harass the Defendants.
- \* **Harassment by Plaintiff:** The Plaintiff has harassed and assaulted Defendant No. 2.
- \* **Financial Constraints:** The Defendants have limited income and cannot afford alternative accommodation.
- \* **No Alternative Accommodation:** Defendant No. 2 has no alternative accommodation.
- \* **Suppression of Facts:** Plaintiff has suppressed the fact that the property belonged to Smt. Saroj Devi and that Devinder Kumar is a co-owner.
- \* **Challenge to Interim Injunction:** Filed a reply and affidavit in opposition to Plaintiff's application for interim injunction.
- \* **Application for Rejection of Plaint:** Filed an application under Order VII Rule 11 CPC for rejection of the plaint.

### ### Relief Sought by Defendants

- \* Dismissal of the Plaintiff's Suit for Eviction, Permanent Injunction, and Mesne Profits.
- \* Declaration that Defendant No. 1 is a co-owner of the suit property with 1/6th undivided share.
- \* Declaration that Defendant No. 2 has the right to reside in the shared household under the Protection of Women from Domestic Violence Act, 2005.
- \* Grant Permanent Injunction in favor of Defendants.
- \* Award costs of the suit and counter-claim in favor of Defendants and against the Plaintiff.
- \* Rejection of Plaint under Order VII Rule 11

### ## Relevant Constitutional Articles

While the provided text does not explicitly mention constitutional articles, the following are potentially relevant based on the nature of the dispute:

- \* **Article 14 (Equality before law):** Could be invoked if there is a claim of discrimination or unfair treatment.
- \* **Article 21 (Protection of life and personal liberty):** Could be argued in the context of the right to shelter and a dignified life, especially concerning the daughter-in-law's claim of a "shared household."
- \* **Article 300A (Right to property):** This article states that no person shall be deprived of his property save by authority of law. This could be relevant to the son's claim of co-ownership.

### ## Relevant Legal Precedents

The following legal precedents may be relevant to the case:

- \* **Kesavananda Bharati v. State of Kerala (1973):** While primarily known for establishing the basic structure doctrine, it underscores the judiciary's power to review laws impacting fundamental rights, which could be relevant if the eviction impacts the fundamental rights of the defendants.
- \* **Maneka Gandhi v. Union of India (1978):** This case broadened the scope of Article 21, emphasizing the importance of fair and reasonable procedures. This could be relevant when evaluating the eviction process and whether it adheres to principles of natural justice.
- \* **Arnesh Kumar v. State of Bihar (2014):** Although related to arrest guidelines, the principle of preventing harassment through legal processes is relevant, considering the defendants' claim that the suit is an abuse of process.
- \* **Social Action Forum for Manav Adhikar and Another v. Union of India Ministry of Law and Justice and Others (2018):** This case highlights concerns about the misuse of laws related to matrimonial disputes, which is relevant given the family relationship between the parties and the defendants' claim of harassment.

\* \*\*Lalita Kumari v. Government of Uttar Pradesh (2013):\*\* This case emphasizes the mandatory registration of FIRs in cognizable offenses. While not directly related to the property dispute, it highlights the importance of following due process and legal procedures, which could be relevant if there are allegations of harassment or assault.

## ## Conclusion

The case of Raj Pal Sharma v. Devinder Kumar & Ors. presents a complex family dispute involving property rights, inheritance, and domestic relations. The Plaintiff's claim for eviction and injunction clashes with the Defendants' assertion of co-ownership and right to residence in a shared household under the Protection of Women from Domestic Violence Act, 2005. The court will need to consider the validity of the relinquishment deed, the applicability of the PWDV Act, and whether the suit constitutes an abuse of process. The cited constitutional articles and legal precedents provide a framework for analyzing the fundamental rights at stake and ensuring a fair and just resolution. The dismissal of the Plaintiff's complaint by the District Magistrate further complicates the matter, raising questions of res judicata and the maintainability of the current suit.

The likely outcome is that the court will consider the application for rejection of plaint under Order VII Rule 11 CPC. If the court finds merit in the defendant's arguments regarding co-ownership, shared household, and prior adjudication, the plaint could be rejected, leading to the dismissal of the plaintiff's suit. Alternatively, the court might frame issues and proceed with a full trial, considering evidence related to the property's ownership, the validity of the relinquishment deed, and the applicability of the PWDV Act. The court may also consider granting a temporary injunction against the plaintiff to prevent further harassment of the defendants until the case is resolved. The final outcome will depend on a thorough examination of the evidence and arguments presented by both parties, keeping in mind the relevant constitutional principles and legal precedents.

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