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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.R.P. 139/2018 and CM No. 27550/2018**

NEELAM CHOPRA & ANR Petitioners
Through: Mr.Pratap Singh, Advocate

versus

POOJA CHOPRA Respondent
Through:

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **16.07.2018**

1. Initial submissions made on behalf of the petitioner.
2. Vide the present petition, the petitioners assail the impugned order dated 23.4.2018 of the learned Additional District Judge-04 (West) in Civ. DJ No. 609080/16 vide which an application under Order XII Rule 6 read with Section 151 CPC filed by the plaintiffs, i.e., the present petitioners seeking the judgment on the basis of the admissions on the basis of a stated admission in the written statement was declined.
3. The plaintiffs, i.e.. the petitioners to the present petition have claimed that they are the owners of the suit property which was purchased by them by a registered sale deed dated 12.4.2005 and have submitted further to the effect that the defendant, i.e., the respondent to the present petition is their daughter-in-law and her husband Manish Chopra is living separately in a rented accommodation and the

plaintiffs have disowned and disinherited the defendant and her husband from all their moveable and immoveable properties vide a public notice dated 5.9.2014 published in the newspaper “Rashtriya Sahara” and that the plaintiffs, i.e., the petitioners to the present petition, asserted that the defendant was allowed to stay in one room, kitchen, bathroom at first floor and due to her misbehaviour, they filed the said suit. *Inter alia* , it was submitted through the plaint before the learned Trial Court that the respondent herein had also hit the head of the plaintiffs with a lock and an FIR No.890/15 dated 15.7.2015 under Sections 323/341/506 Indian Penal Code, 1860 was registered against the defendant, i.e., the respondent to the present petition, at Police Station Uttam Nagar.

4. It has further been submitted on behalf of the petitioners that the defendant, i.e., the respondent to the present petition, in her written statement in paragraph 5 of the preliminary objections has clearly mentioned that the respondent is residing in the matrimonial home which shows that the respondent is the licensee of the plaintiffs and there are only vague denials in relation to the claims made by the petitioners.

5. A perusal of the impugned order and the perusal of the pleadings of the Civil Suit on the record, copies of which are placed on the record, indicate that the defendant of the civil suit, i.e., the respondent to the present petition, has categorically claimed to the effect that the suit property qua which the suit has been filed by the plaintiffs, i.e., the petitioners herein, was purchased out of the funds of selling an ancestral property bearing No.A-178, Hari Nagar, Clock

Tower, New Delhi, which was jointly used by the plaintiff No.2 and his real brother, *namely*, Satpal Chopra.

6. A contention was raised before the learned Trial Court and is reiterated now on behalf of the petitioners that the defendant, i.e., the respondent to the present petition, has not averred that when the ancestral property was inherited by the plaintiff No.2 along with his real brother Satpal Chopra.

7. A further submission has been made on behalf of the petitioners placing reliance on the verdict of this Court in *M/s Sunrise Construction v. Ms. Veena Wahi*; CS(OS) No.154/2008, decided on 12.5.2009 submitting to the effect that the admissions can be on the basis of the pleadings or otherwise, namely in documents, correspondence etc. and can be oral or in writing and can even be constructive admissions and need not be specific or expressive which can be inferred from the vague and evasive denial in the written statement while answering the specific plea raised by the plaintiff and that the admissions can even be inferred from the facts and circumstances of the case, though no doubt, for this purpose, the Court has to scrutinize the pleadings in their detail and has to come to the conclusion that the admissions are unequivocal, unqualified and unambiguous and that in the process, the Court is also required to ignore vague, evasive and unspecific denials as well as inconsistent pleas taken in the written statement and replies, and that even a contrary stand taken while arguing the matter would be required to be ignored which was so observed whilst placing reliance on the verdict of the Division Bench of this Court in *Vijaya Myne v. Satya Bhushan*

Kaura; 142(2007) DLT 483 (DB).

8. It is essential to observe that the observations relied upon on behalf of the petitioner have to be applied equally to the petitioner as well and their pleadings as well submitted before the learned Trial Court qua the submission that have been made on behalf of the defendant to the civil suit, i.e., the respondent to the present petition, as indicated vide paragraph 8 of the impugned order and as also indicated vide the written statement of the respondent placed before the learned Trial Court, wherein vide paragraph 1 to the reply on merits in the written statement of the defendant to the effect;

“ that the contents of para No.1 of the plaint are denied though it is further denied that the plaintiffs are the lawful owner of house property no.BG-47, part of Khasra No. 553 & 554 min, situated in the area of Village Nawada, colony known as Mohan Garden, block-B, Main D.K.Road, Uttam Nagar, New Delhi-110059, measuring 105 sq. yards, which they had purchased on 12.4.2005, but it is a matter of fact that the plaintiffs are in the possession of the above said property. It is further wrong and denied that the plaintiffs have purchased this particular property out of their own funds, but it is pertinent to mention here that the said property is an ancestral property and neither of the plaintiffs have ever taken any kind of loan to purchase this property. It is further denied that any site plan has been annexed as Annexure –P1 since the copy received by the Defendant has only 32 pages in all. It is pertinent to mention here that the said property was purchased by Mr.Jagmohan Chopra by selling an ancestral property bearing No. A-178, hari Nagar, Clock Tower, New Delhi, measuring 250 sq. yards, which was jointly used by plaintiff No.2 and his real brother Mr.Satpal Chopra.”

to which the response of the petitioners in their replication in para 1 of the replication on merits is to the effect:

“ 1. That the contents of para 1 of the written statement, except those which are being admitted as matter of fact, are wrong and hence specifically denied and the corresponding contents of para 1 of the plaint are reiterated to be correct. It is specifically denied that the said property is an ancestral property and neither of the plaintiffs have ever taken any kind of loan to purchase this property. It is further specifically denied the said property was purchased by Mr.Jagmohan Chopra by selling an ancestral property bearing No. A-178, Hari Nagar, Clock Tower, New Delhi, measuring 250 sq. yards which was jointly used by plaintiff No.2 and his real brother Mr.Satpal Chopra.”

which are equally evasive in response to the reply of the defendant, as it is now submitted on behalf of the petitioners that the name of the person mentioned as Satpal Chopra in the written statement of the defendant is not the brother of the petitioner No.2. The said submission has been made now without the same having been so averred in response to para 1 of the written statement in the replication on merits.

9. In these circumstances, there is no infirmity in the impugned order and thus the petition and the accompanying application are declined.

Nothing stated herein above shall however amount to an expression on the merits or demerits of the case.

A copy of this order be sent to the learned Trial Court.

ANU MALHOTRA, J

JULY 16, 2018/SV