

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) No.2433/2011 & IA No.1035/2015

Decided on 24.04.2015

IN THE MATTER OF :

LOKESH

..... Plaintiff

Through: Ms.Sucharita Ghosh, Advocate with
plaintiff in person

versus

CHAUDHARY SUBASH & ORS.

..... Defendants

Through: Mr.Arvind Bhatt, Advocates
for D-1 & D-2

CORAM

HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J. (Oral)

IA No.1268/2015(by the plaintiff u/O XI R 12 CPC)

1. The present case has been placed before the court in terms of an order dated 27.3.2015, passed by the learned joint Registrar, who had recorded that the defendant No.1 had produced the original documents, i.e., general power of attorney, deed of will, receipt dated 23.5.2000, deed of agreement along with affidavit dated 24.5.2000, indemnity bond, no objection certificate, special power of attorney, agreement to appoint arbitrator, possession letter and general power of attorney dated 24.5.2000 etc. The said documents were duly examined by the counsel for the plaintiff and the case has been placed before the court in terms of the order dated 20.1.2015.

2. On 20.1.2015, the court had noted averments made by the plaintiff in IA No.1268/2015, an application filed under Order XI Rule

12 CPC. In the course of arguments, counsel for the plaintiff had stated that if the defendants produce the photocopies of the original documents stated to have been executed by the plaintiff's father, Lt.Chaudhary Man Singh, disposing off his share to the extent of 18 sq.yards in the suit property comprising of a larger area, by a set of documents including registered GPA, registered will, Deed of Agreement and receipt etc. in favour of his mother(grandmother of the plaintiff), the plaintiff would honour the said documents and will not pursue the present suit any further.

3. In view of the aforesaid submission, counsel for the defendants No.1 & 2 was directed to produce the originals of the transfer documents in question before the Joint Registrar for inspection by the learned counsel for the plaintiff.

4. Counsel for the plaintiff states that she and her client had inspected the said documents and are satisfied with the same and therefore, the plaintiff does not wish to pursue the present suit in so far as laying a claim in the share of Lt.Chaudhary Man Singh in the suit premises, to the extent of 18 sq.yrds. is concerned. She however states that the plaintiff is entitled to a miniscule share in the suit property that would have devolved on Chaudhary Bhagwan(son of Chaudhary Ram Singh, brother of the plaintiff's father) who had died

intestate in the year 1995.

5. The aforesaid submission is however denied by the counsel for the defendants No.1 & 2 who asserts that the plaintiff is not entitled to any share whatsoever in the suit property.

6. Assuming that the plaintiff is entitled to *sue* in respect of the said miniscule share that would have allegedly devolved on him on the demise of Chaudhary Bhagwan, it is not denied that the valuation of the suit would be reduced to below ₹20 lacs.

7. Accordingly, the present suit is disposed of with liberty granted to the plaintiff to institute a fresh suit for partition in respect of his share, if any, in the suit property from Chaudhary Bhagwan's share, before the competent court vested with the pecuniary jurisdiction in that regard. It is clarified here that the court has not expressed any opinion on the merits of the claim of the plaintiff for entitlement to a share in the estate of Lt. Chaudhary Bhagwan, which shall be examined by the competent court, in accordance with law.

8. The suit is disposed of, along with the pending application.

APRIL 24, 2015
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(HIMA KOHLI)
JUDGE