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

+ TR.P.(C) 14/2016

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Judgment dated 25th October, 2016

SHRI MEGH SHYAM SHARMA & ORS Petitioners

Through : Ms.Sonal Jain and Ms.Heena Sharma,
Adv.

versus

VINOD KUMAR SHARMA Respondent

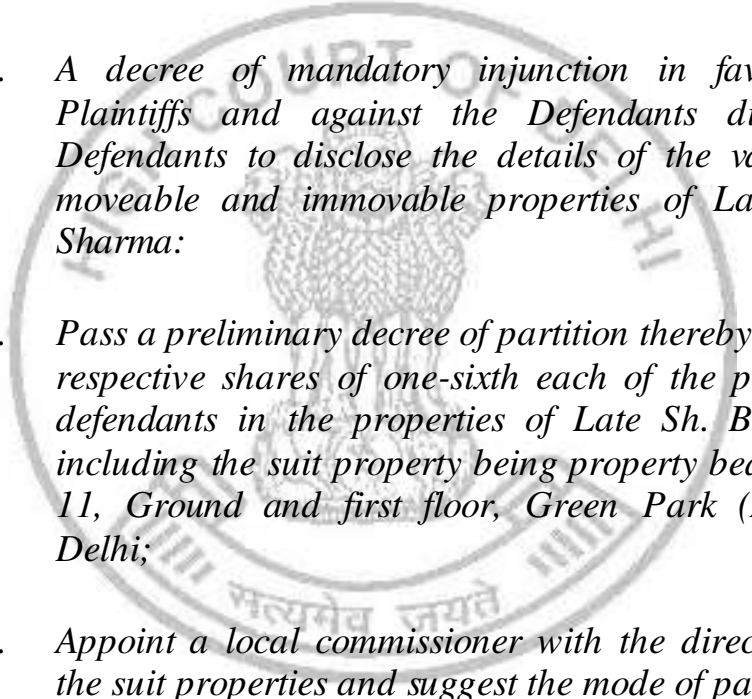
Through : Mr.Siddharth Aggarwal, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. By the present petition filed under Section 24(1)(b)(i) of Code of Civil Procedure, the petitioner seeks transfer of CS(OS) 709/2014 titled as *Vinod Kumar Sharma v. Megh Shyam Sharma & Ors.*, filed by the defendant herein for possession and mesne profits, from the court of District and Sessions Judge, Saket District Courts, New Delhi, to the High Court of Delhi.
2. Learned counsel for the petitioners submits that the petitioners herein have filed a suit, being CS(OS) 1822/2015, for declaration, partition and permanent injunction in the High Court of Delhi with the following prayers:
 - i. *Pass a decree of declaration in favour of the Plaintiffs and against the Defendants thereby declaring that the alleged Will dated 14.02.1987 of Late Sh. B.P. Sharma is a bogus, forged, fabricated document and of no consequence being null, void and non-est;*

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- ii. *Pass a decree of declaration in favour of the Plaintiffs and against the Defendants thereby declaring that the alleged Will dated 14.02.1991 of late Smt. Premwati is of no consequence, being forged and fabricated;*
- iii. *Pass a decree of declaration in favour of the Plaintiffs and against the Defendants, thereby declaring the oral family settlement entered into between the parties and Late Sh. B.P. Sharma in April 1984 by virtue of which the second floor of the suit property bearing no.X-11, Green Park (Main), New Delhi was given to Smt. Vimlesh as the owner in possession, as being valid and binding.*
- iv. *A decree of mandatory injunction in favour of the Plaintiffs and against the Defendants directing the Defendants to disclose the details of the various other moveable and immovable properties of Late Sh. B.P. Sharma:*
- v. *Pass a preliminary decree of partition thereby defining the respective shares of one-sixth each of the plaintiffs and defendants in the properties of Late Sh. B.P. Sharma, including the suit property being property bearing No. X-11, Ground and first floor, Green Park (Main), New Delhi;*
- vi. *Appoint a local commissioner with the direction to visit the suit properties and suggest the mode of partition of the suit property;*
- vii. *Pass a decree of permanent injunction in favour of the plaintiffs and against the defendant no.1 thereby restraining the defendant No.1, his agents, servants, representatives, assigns, friends, associates, etc., from selling, transferring, alienating or paring with the possession or creating any third party interest in the suit property;*
- viii. *Pass a consequential decree of recovery of possession in favour of Plaintiffs for the partitioned share of the suit*

premises except second floor falling into the share of the Plaintiffs;

- ix. Pass a final decree of partition partitioning the entire estate of Late Sh. B.P. Sharma including the property bearing no. X-11, Green Park (Main), ground floor and first floor, New Delhi;*
- x. Cost of the suit may also be award in favour of the Plaintiffs and against the Defendants.*

3. Learned counsel for the petitioners further submits that in case the suit filed by the respondent herein is not transferred, it would only lead to conflicting orders and multiplicity of proceedings.
4. Learned counsel for the respondent has opposed the present petition on the ground that he had filed the suit [CS(OS) 709/2014] prior to the filing of the suit by the petitioners herein [CS(OS) 1822/2015] and the respondent herein have raised a defence in CS(OS) 1822/2015 and, in case, the said defence finds favour with the Court, the case filed by the petitioner herein would be dismissed.
5. I have heard learned counsel for the parties and considered their rival submissions. Having regard to the submissions made, I find force in the submission made by counsel for the petitioners that in the suit, being CS(OS)1822/2015 filed by the petitioners herein, they have sought the declaration that the Will, sought to be relied upon by the respondent herein, are bogus, forged, fabricated and of no consequence being null, void and *non est* and in case the suit filed by the defendant is not transferred in the Delhi High Court, the same would lead to conflicting orders and multiplicity of proceedings. To enable the petitioner herein to succeed in CS(OS) 1822/2015, the petitioner must prove the same as in CS(OS) 709/2014. Accordingly, the present transfer petition is allowed. The suit, being CS(OS) 709/2014 titled as *Vinod Kumar*

Sharma v. Megh Shyam Sharma & Ors., filed by the respondent herein before the Court of District and Sessions Judge, Saket District Courts, New Delhi, is transferred from the said Court to the High Court of Delhi. CS(OS)709/2014 will be listed with CS(OS)1822/2015.

6. Petition stands disposed of in view of above.
7. DASTI to the parties.

OCTOBER 25, 2016

msr

G.S.SISTANI, J

