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

+ CS(OS) 2933/2012 and I.A. Nos.20350/2010 (under Order 1 Rule 10 CPC), 6653/2013 (under Order 11 Rule 21 CPC by plaintiff), 9788/2015 (Order 1 Rule 10(2) by defendant Nos.3 & 4) & 1018/2016 (under Order 6 Rule 17 CPC by plaintiff)

SEAN DUSHYANT MANCHANDA ..... Plaintiff  
Through: Ms. Tara V. Ganju, Advocate.

versus

RABIA MANCHANDA & ORS ..... Defendants  
Through: Mr. Rohit K. Aggarwal, Advocate  
with Ms. Amrita Singh, Advocate for  
defendant Nos.3 and 4.  
Mr. Aman Vachher, Advocate with  
Mr. Ashustosh Dubey, Advocate for  
defendant Nos.5 and 6.  
Mr. Sushil Dutt Salwan, Advocate for  
defendant No.7.  
Mr. Kushagra Pandit, Advocate for  
defendant No.8.

**CORAM:**

**HON'BLE MR. JUSTICE VALMIKI J. MEHTA**

**ORDER**

% **03.03.2016**

1. In this suit, the following reliefs are claimed:-

“(i) Pass an Decree declaring that Will dated December 31, 2011 purported to be signed by late Mr. A.D. Manchanda is null and void;

(ii) Pass an Decree directing that the said Will dated December 31, 2011 purported to be signed by late Mr. A.D. Manchanda be delivered up and cancelled;

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(iii) Pass an Decree declaring that the marriage between late Mr. A.D. Manchanda and Defendant No.1 is illegal and void;

(iv) Pass an Decree declaring that the Plaintiff and Defendant No.8 are the only coparceners of the A.D. Manchanda (HUF) and entitled to all the assets of A.D. Manchanda (HUF) as set forth in the Scheduled Property;

(v) Pass an Decree declaring that neither Defendant No.1 nor Defendant No.2 is a member/coparcener, or otherwise entitled to any assets whatsoever or where so ever situated, of A.D. Manchanda (HUF);

(vi) Pass a decree of Perpetual injunction restraining the Defendants No.1 to 7, their agents, officers, employees and servants and/or any other persons claiming on their behalf or through them from alienating, transferring, creating 3<sup>rd</sup> party interest and/or dealing in Savings Account bearing No.5106620228, type of Account NRO, with Citibank N.A. 3<sup>rd</sup> Floor, Jeevan Bharti Building, 124 Connaught Circus, New Delhi-110001 and/or howsoever, the said Account has been named or numbered since its opening;

(vii) Pass a decree of Perpetual injunction restraining the Defendants No.1 to 7, jointly and severally their agents, officers, employees and servants and/or any other persons claiming on their behalf or through them for alienating, transferring, creating 3<sup>rd</sup> party interest and/or dealing with the portfolio investment of the A.D. Manchanda (HUF) as reproduced in paragraph 24 hereinabove or as it may be existing as on date;

(viii) Pass a decree of Perpetual injunction restraining the Defendant No.1 to 7 jointly and severally and/or any other persons claiming on their behalf or through them from alienating, transferring, creating 3<sup>rd</sup> party interest and/or dealing with the Scheduled Property.

(ix) Pass a decree of Perpetual Injunction restraining the Defendant No.1 to 7, their agents, officers, employees and servants

and/or any other persons claiming on their behalf or through them from alienating, transferring, creating 3<sup>rd</sup> party interest and/or dealing with the any and all property of late Mr. A.D. Manchanda;

(x) Pass a decree in favour of the Plaintiff and against the Defendants jointly and severally for rendition of accounts directing the Defendants No.1,2,5,6 and 7 to render the accounts of the A.D. Manchanda (HUF) as set forth in the Schedule Property;

(xi) Pass a decree in favour of the Plaintiff for recovery of all monies lying in A.D. Manchanda (HUF) and also directing the Defendants No.3 and 4 to release the amount that was standing to the credit in Savings Account bearing No.5106620228, Type of Account NRO, with Citibank N.A. 3<sup>rd</sup> Floor, Jeevan Bharti Building, 124 Connaught Circus, New Delhi 110001 and/or howsoever, the said Account has been named or numbered since its opening, as on the date of last transaction by late Mr. A.D. Manchanda;

(xii) Pass an Decree granting the Plaintiff leave to sue for and claim for more/future reliefs with respect to the present suit which the Plaintiff might have omitted;

(xiii) Pass a Decree of Mandatory injunction in favour of the Plaintiff thereby, directing the Defendants No.5,6 and 7 jointly and severally to hand over all documents, the details of the investments made by late Mr. A.D. Manchanda as Karta of A.D. Manchanda (HUF) during Mr. A.D. Manchanda's lifetime and from time to time;

(xiv) Pass a decree in favour of the Plaintiff of Mandatory Injunction thereby directing the Defendants No.1 to 7 jointly and severally to release all the properties and assets in the name of A.D.Manchanda (HUF) and late Mr. A.D. Manchanda or in the alternative; in case this Hon'ble Court finds that the marriage of Defendant No.1 with late Mr. A.D. Manchanda is valid in accordance with applicable law, then, pass a decree of partition thereby partitioning the Schedule Property and all the other assets of A.D. Manchanda (HUF) and of late Mr. A.D. Manchanda in equal shares

between Plaintiff and Defendant No.1;

(xv) Grants Costs of the present suit to the Plaintiff;

(xvi) Pass such other relief or reliefs as the Hon'ble Court deems fit to grant in the circumstances of the case.”

2. Though counsel for the plaintiff very vehemently argues that the subject suit is a commercial dispute falling under Section 2(1)(c)(i) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as ‘the Act’), I cannot agree because the subject suit essentially seeks devolution of properties and right to properties by devolution and inheritance. The subject suit is not a suit with respect to merchants or bankers or financiers or traders because the disputes pertaining to merchants or bankers or financiers or traders are commercial disputes as a merchant or as a banker or as a financier or as a trader. Issues of devolution of interest of a property of a deceased person will not fall under Section 2(1)(c)(i) of the Act.

3. An Office Order dated 24.11.2015 has been issued by Hon'ble the Chief Justice in exercise of powers conferred by Section 4 of the Delhi High Court (Amendment) Act, 2015, whereby ordinary suits which are not commercial matters having pecuniary jurisdiction up to the value of rupees

two crores cannot be tried by this Court and commercial matters up to the value of rupees one crore cannot be tried by this Court. Accordingly, this suit is transferred for decision to the jurisdictional Court under the District & Sessions Judge, Patiala House Courts, New Delhi.

4. Let parties appear before the District & Sessions Judge, Patiala House Courts, New Delhi on 8<sup>th</sup> April, 2016. Suit file be made available to the District & Sessions Judge, Patiala House Courts, New Delhi on the date fixed.

**VALMIKI J. MEHTA, J**

**MARCH 03, 2016**  
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