

\$~8

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

+ **CS(OS) 41/2017**

MRS ANU LAMBA

..... Plaintiff

Through: Ms. Gurmeet Bindra, Advocate.
versus

MR BASANT SINGH MALIK & ORS

..... Defendants

Through: Mr. V.Hari Pillai , Mr. Manish Kr.
Sehgal, Advs. for D-1.
Mr. Puneet Singh Bindra, Mr. Ajay
Gulati and Mr. Sharad Khanna,
Advocates for D-2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **01.12.2017**

1. This suit was filed as a suit for partition of the property of the mother Smt. Dalip Kaur Malik who was said to have died intestate. Cause of action in the suit therefore was on account of the death of the mother Smt. Dalip Kaur Malik.

2. Written statement has been filed by the defendant no.2 and as per which written statement the mother Smt. Dalip Kaur Malik had executed a registered sale deed dated 13.4.2006 in favour of defendant no.2. Counsel for the plaintiff states that plaintiff intends to challenge this sale deed allegedly executed by the mother Smt. Dalip Kaur Malik. It is also stated

that in case the plaintiff succeeds in setting aside the sale deed, plaintiff will also have to seek setting aside of the alleged registered Will dated 26.11.1994 executed by late Smt. Dalip Kaur Malik bequeathing the suit property to her three sons and who are the defendant nos.1 to 3 in the present suit.

3. Since the subject suit is only a suit for partition based on the cause of action of the death of Smt. Dalip Kaur Malik, the fresh suit to be filed will be with respect to an additional and different cause of action to challenge the sale deed in favour of the defendant no.2, accordingly as prayed for, this suit is allowed to be withdrawn with liberty to the plaintiff to file a fresh suit in which plaintiff proposes to question and challenge the sale deed executed by the mother in favour of defendant no.2 as also the registered Will of the mother in favour of the three sons as stated above.

4. The interim order passed in the present suit on 31.1.2017 is extended exactly for a period of three weeks from today but continuation of this injunction will have no reflection on the merits of the cases of the parties and the entitlement or disentitlement of the plaintiff to seek injunction in the fresh suit to be filed as also the defence of the defendant no.2 that such an injunction should not be granted.

5. The suit and all pending applications are accordingly disposed of as not pressed but with the aforesaid liberty.

VALMIKI J. MEHTA, J

DECEMBER 01, 2017

ib