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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 3176/2015

SH NIRMAL KUMAR KATHOTIA Plaintiff
Through: Mr. Dhruv, Advocate.

versus

SH CHAMPALAL KATHOTIA Defendant
Through: Mr. Mayank Bansal, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **19.05.2017**

I.A. 6256/2017 in CS(OS) 3176/2015

Present application has been filed seeking correction/amendment of the order dated 09th January, 2017.

Issue notice.

Mr. Mayank Bansal, learned counsel accepts notice on behalf of the defendant. He states that he has no objection to the present application being allowed.

Consequently, present application is allowed and the order dated 09th January, 2017 shall now read as under:-

“The present suit has been filed by the plaintiff for cancellation of the two Gift Deeds i.e. Gift Deed dated 26.09.2014, in respect of property bearing No. A-282 (Plot No. 282, Block –A), School Teachers Cooperative House Building Society Ltd., Colony known as Suraj Mal Vihar, Delhi -110092

and Gift Deed dated 26.09.2014, in respect of property bearing No. B-269 (Plot no. 269, Block B) Yojna Vihar Delhi 110092.

*It is submitted by plaintiff that he is the absolute owner and in possession of **A-282 (Plot No.282, Block-A), School Teachers Cooperative House Building Society Ltd.** He became the joint owner of **A-282 (Plot No.282, Block-A), School Teachers Cooperative House Building Society Ltd.** with Sh. Nortan Mal Bengani in equal share i.e. 50% each by virtue of a registered conveyance deed executed on 11.06.1999 registered as document No.2278 in Book No.1, Vol.No.191 at pages 1 to 3, registered on 14.06.1999 in the office of Sub-Registrar, VIII, Delhi. Sh. Nortan Mal Bengani, vide a registered Release Deed dated 26.07.2004, released his 50% shares in the above suit properties in his favour. The said Release Deed was registered on 26.07.2004 as document no. 6592 in Book No. 1, Vol. No. 1315 at pages 26 to 30 in the Office of Sub Registrar, VIII, Delhi.*

*It is submitted that in respect of property no. **B-269 (Plot no. 269, Block B) Yojna Vihar Delhi 110092**, Smt. Prem Kathotia wife of Nirmal Kumar Kathotia and Sh. Sumer Mal Kathotia son of Sh. M.C. Kathotia became the joint owners by virtue of the registered Conveyance Deed dated 13.03.1997, duly registered as Document No. 1252, in Book No. I, Volume No. 2947, at pages 111 to 113, registered on 20.03.1997, in the office of Sub-Registrar IV, Delhi.*

It is further submitted that Sh. Sumer Mal Kathotia died on 13.12.2002, leaving behind the following legal heirs:-

- a. Smt. Pannadevi Kathotia Wife*
- b. Sh. Kamal Singh Kathotia Son*
- c. Sh. Champalal Kathotia Son*
- d. Smt. Sobhag Devi Singhi Daughter*
- e. Sh. Nirmal Kumar Kathotia Son*

It is also submitted that Smt. Pannadevi Kathotia and Smt. Sobhag Devi Singhi have relinquished their share in the name of the plaintiff vide relinquished Deed executed on 19.09.2006, duly

registered as Document No. 11099, in Book No. 1, Volume No. 2557, at pages 175 to 177, registered on 19.09.2006, in the office of Sub-Registrar VIII, Delhi. Thereafter, Sh. Kamal Singh Kathotia and Sh. Champalal Kathotia also vide deed dated 22.05.2004, relinquished their share in the name of plaintiff vide relinquished Deed executed on 05.12.2006, duly registered as Document No. 13276, in Book No. I, Volume No. 2642, at pages 17 to 20, registered on 05.12.2006, in the office of Sub-Registrar VIII, Delhi. Smt. Prem Kathotia also released her share i.e. 50% of the suit property in the name of plaintiff vide Release Deed executed on 19.09.2006, duly registered as Document no. 11100 in Book No. I, Volume No. 2557, at pages 178 to 182, registered on 19.09.2006, in the office of Sub-Registrar VIII, Delhi.

*It is submitted that he thus became the absolute owner of both the suit properties. In the month of July 2014, however due to some reasons he has executed the gift deeds in favour of the **defendant**. It is now submitted that during the pendency of the present suit, the parties had reached to the settlement by which the **defendant** had agreed for the cancellation of the gift deed.*

The terms of the settlement is included in the application under Order 23 Rule 3 read with Section 151 CPC dated 22.11.2016. Plaintiff has also relied on the findings in the case of Lotika Sarkar vs. Preeti Dhoundial reported in (2010) 167 DLT 1.

In view of the settlement arrived at between the parties, the suit stands decreed in favour of the plaintiff and two gift deeds dated 26.09.2014 in respect of properties bearing No.A-282 (Plot No. 282, Block –A), School Teachers Cooperative House Building Society Ltd., Colony known as Suraj Mal Vihar, Delhi -110092 and B-269 (Plot no. 269, Block B) Yojna Vihar Delhi 110092 stand cancelled.

Decree sheet be prepared.

I.A. 6257/2017 in CS(OS) 3176/2015

Present application has been filed seeking a direction to the Registry of this Court to recall its letter dated 07th February, 2017.

The Registrar (Original) is directed to give his comments to the present application on the Administrative side.

List on 07th September, 2017.

MANMOHAN, J

MAY 19, 2017

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