

\$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on :10th May, 2018

Date of Decision: 4th July, 2018

+

RFA 93/2017

ASMA PRAVEEN

..... Appellant

Through: Mr. Diwan Singh Chauhan, Advocate
(M-9810274088).

versus

BADRU NISA & ORS.

..... Respondents

Through: Mr. Amit Dhalla, Advocate for R-1 &
2 (M-9999178785).

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

Prathiba M. Singh, J.

1. The Respondents/Plaintiffs - Smt. Badru Nisa and Sh. Parvez Ahmed wife and son, respectively of Late Sh. Faiz Ahmed (*hereinafter 'Plaintiffs'*), filed a suit for possession and permanent injunction against the Appellants/Defendants - Sh. Shakeel Ahmed, Sh. Wakeel Ahmed and Smt. Asma Parveen (*hereinafter 'Defendants'*). The said suit was decreed by the Trial Court in the following terms:

"RELIEF"

From the above discussions and in view of my findings recorded on issues no.4, 5 & 6, I am of the opinion that suit of the plaintiffs deserves to be decreed and is hereby decreed. A decree for possession in respect of the suit property is passed in favour of the plaintiffs and against the defendants. A decree of permanent injunction is also passed in favour of the plaintiffs and against the defendants restraining the defendants, their associates, workmen, family members etc. from transferring, assigning or part with the possession of the suit property. No order as to cost. Decree

*sheet be drawn accordingly.
File be consigned to Record Room.”*

2. The case of the Plaintiffs is that Late Sh. Faiz Ahmed and Plaintiff No.1- Smt. Badru Nisa had purchased the suit property bearing municipal no. 2198, Pahari Bhojla, Bajar Chitli Qabar, Jama Masjid, Delhi (*hereinafter ‘Suit Property’*). One Sh. Rahat Hasan was the tenant in the suit property. He passed away on 28th November, 2010. He was alone and had no children. The Plaintiffs pleaded that the Defendants, upon the death of Sh. Rahat Hasan put their locks on the suit property and took possession of it. The Plaintiff No.1 who is 71 years old visited the suit property after hearing about the death of Sh. Rahat Hasan about 2 to 3 days later. She found that the premises were locked. She thereafter lodged a complaint on 21st December, 2010 with the local Police after making enquiries in the neighbourhood. The local Police registered an FIR No.8 dated 27th January, 2011. The Defendants were arrested by Police and were released on Bail.

3. Defendants No.1 and 2 are real brothers and Defendant no.3 - Smt. Asma Parveen is their sister. Smt. Asma Parveen filed a suit for injunction on 15th January, 2011 against the Plaintiff no.1. She pleaded in the said suit that she was nominated by the tenant, Sh. Rahat Hasan as his nominee in his LIC policy. She is the niece of Sh. Rahat Hasan and was dependent upon him for her residence. She claimed to be in possession of the suit property. She further claimed that Sh. Rahat Hasan had an electricity and water connection in his name. Accordingly, she had prayed for an injunction. The said suit was disposed of on 14th December, 2011 when the Defendants therein i.e. the Plaintiffs herein agreed that they will not forcibly dispossess Smt. Asma Parveen without adopting due process of law.

4. In the present suit, the Plaintiff also pleaded that in Smt. Asma Parveen's suit, the Learned Trial Court had rejected the prayer for injunction initially on the ground that Smt. Asma Parveen was unable to show her settled possession in the suit property. However, thereafter the suit was disposed of in the appellate stage.

5. The Plaintiff claimed in the plaint that on 2nd January, 2012, the Defendants brought some third parties to show them the suit property and their intention appeared to be to create third party rights and illegally dispose of the property. At that time, the Plaintiffs requested the Defendants to hand over vacant and peaceful possession. Plaintiffs claim that they again complained to the Commissioner of Police but to no avail. The subject suit for injunction was therefore filed seeking the following reliefs:

“a) a decree for possession with regard to the property bearing municipal No.2198, Pahari Bhojla, Bajar Chitli Qabar, Jama Masjid, Delhi-110006, as shown red colour in the site plan, be passed in favour of the plaintiffs and against the defendants;

b) a decree for permanent injunction may kindly be passed in favour of the plaintiffs and against the defendants, restraining the defendants, their associates, workmen, family members, etc. from transferring, assigning or part with the possession of the property bearing municipal No.2198, Pahari Bhojla, Bajar Chitli Qabar, Jama Masjid, Delhi-110006, as shown red colour in the site plan attached;

c) cost of the suit may also be awarded in favour of the plaintiffs and against the defendants;

d) Any other and further order (s) which this Hon'ble Court may deem fit and proper in the facts and circumstances mentioned above be

passed in favour of the plaintiffs and against the defendants.”

6. In the written statement of Defendants No.1 and 2, it was pleaded that the Defendants No.1 and 2 are not in occupation and possession of the premises in question in the suit. Defendant No.3-Smt. Asma Parveen filed her written statement claiming that the Plaintiffs are not the owners of the property. She further claims that she is the niece of Sh. Rahat Hasan in the government records, and that upon his death she became the **“automatic tenant”** of the property in question. Since she is the nominee in the LIC policy of Sh. Rahat Hasan, she has inherited the tenancy as a legal heir. She pleaded that she is a successor by contract. She also ascertained that her brothers, Sh. Shakeel Ahmed and Sh. Wakeel Ahmed i.e., Defendant Nos. 1&2 had not put any locks in the suit property. On 10th September, 2012, the following issues were framed by the Trial Court:

- “1. Whether the plaint is liable to be rejected for want of cause of action ? OPD.*
- 2. Whether this court has no pecuniary jurisdiction to entertain and try this suit ? OPD.*
- 3. Whether the suit is bad for non joinder of necessary parties ? OPD.*
- 4. Whether the plaintiff is entitled for decree for possession in respect of the suit property ? OPP.*
- 5. Whether the plaintiff is entitled for decree for permanent injunction qua the suit property, as prayed ? OPP.*
- 6. Relief.”*

7. On 1st May, 2013, upon an application filed on behalf of Defendant No.3, an additional issue was framed to the following effect:

“Whether the suit is barred under Section 50 of

Delhi Rent Control Act, ”

8. The trial of the suit commenced. The Plaintiffs moved an application under Order I Rule 10 and Order VI Rule 17 and Section 151 CPC dated 27th August, 2016. In the said application, the Plaintiff no.1, who had initially filed the suit sought impleadment of Sh. Parvez Ahmed i.e. the son of Sh. Faiz Ahmed and Smt. Badru Nisa and he was allowed to be impleaded as Plaintiff No.2. In the application under Order VI Rule 17, the consequential amendments in the memo of parties and the suit were also made.

9. Smt. Badru Nisa appeared as PW-1. She exhibited a copy of the complaint-Ex.PW1/D1 dated 16th December, 2010 along with copy of FIR. She also exhibited the site plan as Ex.PW-1/1, death certificate of Sh. Faiz Ahmed as PW-1/2, registered sale deed by which the property was purchased as – PW1/3. In her cross-examination, she confirmed the lodging of the complaints with the Police. She also deposed that Sh. Rahat Hasan was a tenant of the earlier landlord from whom she had purchased the property. She also stated that Sh. Rahat Hasan used to pay the rent in cash and the rent receipt used to be issued by her on printed rent receipt book and that she used to maintain a counter foil. She stated that the rent receipts were issued by her personally since 1992. She also confirmed that the electricity meter and water connection for the suit premises are in the name of Sh. Rahat Hasan. She also stated that Sh. Rahat Hasan was working as an Information Officer in the British Embassy. She claims ignorance about the nomination of Smt. Asma Parveen in the LIC policy of Sh. Rahat Hasan. She also stated that the Defendant No.3 i.e. Smt. Asma Parveen never paid any rent to her after the death of Sh. Rahat Hasan.

10. PW-2, Sh. Ashok Kumar, an official from the office of Sub-Registrar-I, Kashmiri Gate, Delhi produced the record of sale dated 31st January, 1992 by which the Plaintiff-Smt. Badru Nisa and her husband, Sh. Faiz Ahmed had purchased the suit property. He confirmed that Exhibit PW 1/3 was the correct copy of the sale deed. He also produced a site plan to identify the property which was available on the records of his office. The copy of the site plan produced by the Sub-Registrar's Office was exhibited as PW-2/1.

11. Defendant No.3 produced a witness from the LIC, Sh. Rajiv Mishra, Administrative Officer. He confirmed that the LIC policy, DW-3/1 was in the name of Sh. Rahat Hasan and in the said policy, he had made Smt. Asma Parveen as the nominee. In the relationship column, she was described as 'Others'. In his cross-examination, he stated that he could not confirm as to whether the said Smt. Asma Parveen was the same as Defendant No.3 as he had never met the nominee personally. The address and photograph of the nominee was also not on the record.

12. Smt. Asma Parveen appeared as DW-3/2. Her basic stand was that she is a nominee of her uncle, Sh. Rahat Hasan in his LIC policy. She asserted that the ration card and voter ID card is from the same address, but copies of the same were not filed on record. She admitted as under:

"I am living in this suit property since I was 10 years old. It is correct that my ration card and my voter I card is also from the same address. I have filed the voter I card in the judicial record. After going through the judicial record, she said the same has not been filed. My voter I-card does not bear the name of Rahat Hasan. It is correct that in the ration card of Rahat Hasan, my name has not been mentioned. I have not filed my ration card in the judicial file".

13. She stated that no Will was executed in her favour. She further claimed that she was the 'legal representative' of Sh. Rahat Hasan. The most important part of her cross-examination was that she confirmed that she had no other documents except the LIC policy to show that she was the legal representative of Sh. Rahat Hasan. She further claimed that Sh. Rahat Hasan had adopted her during his life time. She further stated that she did not know as to whom Sh. Rahat Hasan was paying rent as he had never paid rent in her presence. She further stated that she was residing along with her husband in the suit property. She confirmed the fact that Sh. Rahat Hasan was never married. She claimed that Sh. Rahat Hasan had a cook, but she used to do the remaining work of sweeping, washing clothes and kitchen utensils.

14. D3W3 was the Administrative Officer from the LIC Branch, Rohini. She produced the documents which were marked as Mark A for the purpose of identification. D3W4 was the official from the Tis Hazari Courts who confirmed the copy of the plaint, statement given and the order of the Appellate Court passed in the suit filed by Smt. Asma Parveen. D3W5 was an officer from the BSES, who produced the bill to show that the electricity meter was in the name of Sh. Rahat Hasan. D3W6 – Ms. Gagan Bala produced D3W6/A which was the same set of documents which was earlier Mark A. In the said policy document, Smt. Asma Parveen was described as niece. This document was dated 31st August, 2007. The address of Smt. Asma Parveen was also shown as being the suit property.

15. The Trial Court, in its judgment held that Muslim law does not recognise adoption insofar as inheritance is concerned, and therefore Defendant No.3- Smt. Asma Praveen cannot claim to be the legal heir of Sh. Rahat Hasan. The Trial Court also held that successor by contract is not

recognized in Muslim law. He therefore held that Defendant No.3 cannot be extended any protection as a statutory tenant. Thus, the suit for possession was decreed by the Trial Court.

16. In the present appeal, the submission of the Ld. Counsel for the Defendants is that Section 2(11) of the CPC recognizes an intermeddler who is not a natural heir to also be a legal representative. He submits that though Smt. Asma Parveen is the niece of Sh. Rahat Hasan, since she has possession of the property and she derived possession from Sh. Rahat Hasan, she is entitled to protection as a statutory tenant. It is the submission of Ld. Counsel that she ought to be recognized at least as an intermeddler owing to her nomination in the LIC policy which evidenced the fact that Sh. Rahat Hasan treated her like a daughter. He relied on ***Abdul Wahid v Hameed Mian (Decd.) Thru LRs & Ors. 169 (2010) DLT 183*** (hereinafter, '*Abdul Wahid*') in support of his case. Ld. Counsel for the Appellant further submitted that in view of the decision in ***Mohd. Aslam v Mohd. Ajmal 2009 (159) DLT 210*** (hereinafter, '*Mohd Aslam v. Mohd Ajmal*'), tenancy can be inherited.

17. On the other hand, Ld. Counsel for the Plaintiffs has submitted that the Defendants are rank trespassers and unauthorized occupants. Defendants No.1 and 2 admittedly have no rights and they claim none. It is also submitted that the Defendant No.3 has not paid even a single penny of rent and thus cannot be recognized as a tenant.

18. The court has heard the submissions of the parties. The admitted facts are that Defendants No.1 and 2, Sh. Shakeel Ahmed and Sh. Wakeel Ahmed had no right to remain in the suit property as per their own written statement. Thus, the decree for possession against them is liable to be confirmed.

19. Insofar as Smt. Asma Parveen i.e., Defendant No.3 is concerned, the documents relied upon by her to claim that she is a legal representative of Sh. Rahat Hasan is the nomination in the LIC policy. There is no doubt that Defendant No.3 has been able to show that she had a close relationship with her uncle, Late Sh. Rahat Hasan and that she was his niece. Thus, what the Defendant No.3 has been able to establish is that she is the niece and that she was a nominee in the LIC policy. The question that arises is whether she can be considered as an inter-meddler under Section 2(11) of CPC. Section 2(11) reads as under:

Section 2(11) - "legal representative" means a person who in law represents the estate of the deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the deal of the party so suing or sued."

20. In **Baliram Hari v. Mukinda Kisan AIR 1951 Nag 145**, a Single Judge of the Nagpur High Court held as under:

15. It must be remembered that the enactment merely defines the term and creates or imposes no liability at all: see Bhimsingh v. Shersingh, I.L.R. (1947) Nag. 830 at pp. 835, 836 : (A.I.R. (35) 1948 P.C. 1). Thus, the definition merely tries to show what is embraced within the meaning of the term 'legal representative' as used in various places in the Code of Civil Procedure as also in S. 50 of the Code. Even after this definition there is a conflict of decisions because in some cases a narrow meaning is given to the expression while in others a wider meaning is attributed.

.....

17. There can be no doubt that an intermeddler is

meant to include an executor de son tort. The only question is whether it can be said to include a person who though intermeddling with the estate of the deceased does not represent the estate as such.

.....
24. *In Jai Kishen Dass v. Karimuddin, A.I.R. (26) 1939 Lah. 321 : (41 P.L.R. 814), Bhide, J., though he disallowed an intermeddler to continue the lis observed as follows:*

“A person who intermeddles with the property of a deceased person has been probably included in the definition of a ‘legal representative’ in Code of Civil Procedure merely to enable persons who wish to obtain relief against the property to proceed against it in the hands of such a person.”

25. *In my opinion the observations of Bhide, J. merit the closest consideration. The history of the law shows that all along it was the intention of the legislature to make the property of a judgment-debtor available even after his death for the satisfaction of decrees passed against him. To put a narrow construction upon the definition deprives a decree-holder of the fruits of his litigation because property may change hands several times, and the decree-holder would, therefore, be required to bring a multiplicity of suits to get the fruits of his decree. In my opinion the word intermeddler’ has been used in its ordinary meaning of a person who meddles with the property of another without any right thereto, and at least in executions where a decree has been legally obtained against the property the intermeddler must be treated as a legal representative for purposes of the continuance of the execution under S. 50. I am in favour of the liberal interpretation placed upon the definition of ‘legal representative,’ I see therefore no reason to interfere with the decision given by the two Courts below. The appeal fails and is dismissed with costs.”*

21. The Madhya Pradesh High Court in *Kalyanmal Mills Ltd., Indore v. Volimohammed & Anr.* AIR 1965 MP 72, held as under:

“3. A legal representative is defined by Section 2(11) of the CPC as follows:

“‘legal representative’ means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued.”

4. It will, therefore, be seen that the term ‘legal representative’ means not only a person, who in law represents the estate of a deceased person, but also includes any person who intermeddles with the estate of the deceased, although such intermeddler may not in law represent the estate of a deceased person.

5. Therefore, if the cause of action survives after the death of a party, the provisions of O. 22, R. 1 of the CPC are attracted. The suit cannot be said to abate if the right to sue survives. Thereafter, the provisions of Order 22, Rule 3 and Order 22, Rule 5 of the CPC would be attracted. The effect of an order passed under Order 22, Rule 5 would not be to confer on the intermeddler any right or title or interest, if there be none. Such an order is only for the purposes of the suit itself. The right of the intermeddler has to be adjudicated upon independently of such order.

6. However, the learned counsel for the petitioner, urged that the phrase ‘intermeddler’ would not include a rank trespasser. In this connection attention was invited to a Division Bench case of the Calcutta High Court in Satya Ranjan Roy v. Sarat Chandra, AIR 1926 Cal 825, wherein it was held that a person taking away a portion of the property of a deceased man does not

get a right to be substituted as a legal representative merely because of his possession of a portion of the property of the deceased in the face of other legal representative, who are in possession lawfully. There can be no doubt that a rank trespasser has no right to claim to continue the suit after the death of a party on account of his unlawful trespass. I do agree with the proposition that a rank trespasser ought not to be allowed to continue art infructuous litigation.

7. To the Same effect were the observations of Bhide, J. in Jai Kishen Dass v. Karimuddin, AIR 1939 Lah 321 where a decree-holder died leaving a lawful heir and another person was unlawfully in possession of the property. The learned Judge, with reference to the definition of a legal representative under Section 2(11) of the CPC, held that the person in unlawful possession could not be deemed to be a legal representative in the presence of a lawful heir.”

22. ***Andhra Bank v. R. Srinivasan AIR 1962 SC 232*** (hereinafter, ‘*R. Srinivasan*’), the Supreme Court held that an inter-meddler is a person who represents the estate of the deceased. The observation of the Supreme Court is as under:

“17. That takes us to the other argument raised by Mr. Vishwanatha Sastri on behalf of the respondents. He contends that Respondents 2 to 12 who are in possession of different pieces of property belonging to the deceased Raja Bahadur under the will executed by him cannot be said to be his legal representatives under Section 2(11) of the Code. Section 2(11) provides, inter alia, that a legal representative means a person who in law represents the estate of the deceased person, and includes any person who intermeddles with the estate of the deceased. It is well known that the expression “legal representative” had not been defined

in the Code of 1882 and that led to a different of judicial opinion as to its denotation. In Dinamoni Chaudhurani v. Elahadut Khan, the Calcutta High Court had occasion to consider these conflicting decisions. It was urged before the High Court that the term "legal representative" used in Section 234 of the said Code had to be construed strictly and could not include anybody except their heir, executor or administrator of the deceased. The argument was that the term had been taken from the English law and its scope could not be extended. This argument was rejected by Brett and Woodroffe, JJ. Woodroffe, J. examined several judicial decisions bearing on the point and observed 'from this review of the authorities it will appear that judicial decisions have extended the sense of the term "legal representative" beyond that of its ordinary meaning of "administrator, executor, and heir" and though such extension has been attended with doubt and has in some cases been the subject of conflicting decision it appears to me to be too late now to endeavour, however convenient it might be, to secure for the term that which is perhaps its strict and legitimate sense. I agree, therefore, in holding that the term is not limited to administrators, executors and heirs and am of opinion that it must now be held to include any person who in law represents the estate of a deceased judgment-debtor. It would be relevant to observe that the view thus expressed by Woodroffe, J has been embodied in the present definition of "legal representative" by Section 2(11).

18. Mr. Sastri concedes that a universal legatee would be a legal representative and he does not challenge that the person who intermeddles even with a part of the estate of the deceased is also a legal representative; but his argument is that a legatee which obtains only a part of the estate of the deceased under a will cannot be said to represent his estate and is therefore not a legal representative under Section

2(11). We are not impressed by this argument. The whole object of widening the scope of the expression “legal representative” which the present definition is intended to achieve would be frustrated if it is held that legatees of different portions of the estate of a deceased do not fall within its purview. Logically it is difficult to understand how such a contention is consistent with the admitted position that persons who intermeddles with a part of the estate are legal representatives. Besides, if such a construction is accepted it would be so easy for the estate of a deceased to escape its legitimate liability to pay the debts of a deceased debtor only if the debtor takes the precaution of making several legacies to different persons by his will. Besides, as a matter of construction, if different intermeddlers can represent the estate different legatees can likewise represent it. In regard to intermeddlers they are said to represent the estate even though they are in possession of parcels of the estate of the deceased and so there should be no difficulty in holding that the clause “a person who in law represents the estate of a deceased person” must include different legatees under the will. There is no justification for holding that the “estate” in the context must mean the whole of the estate. Therefore, we are satisfied that the plain construction of Section 2(11) is against Mr. Sastri’s argument, apart from the fact that considerations of logic and common sense are equally against it.”

23. In **Abdul Wahid** (supra), a Learned Single Judge of this court held as under:

“29. It is plain from a reading of Section 2(11) that the definition of the word “legal representative” is inclusive in character and its scope is wide. It consists of two distinct categories of legal representatives, who in law represent the estate of

the deceased. The first category of legal representatives are those who are legal heirs of the deceased. At par with them and in a class by itself, are the persons who are “intermeddlers” with the estate of the deceased. This category may comprise of local guardian in possession of the estate in the event of the death of the minor, executors or administrative will and those in possession of the estate of the deceased in any capacity whatsoever.”

24. Apart from merely accepting the payment under the LIC policy as a nominee, there is no other document to show that Sh. Rahat Hasan had put his niece, Smt. Asma Parveen in possession of the suit property or that she had inherited any part of the estate of Sh. Rahat Hasan. He admittedly had no wife and no children. Smt. Asma Parveen has not produced any document on record to show that she was living with her uncle-Sh. Rahat Hasan. Moreover, after his death, she never came forward and informed the Plaintiffs, who were the landlords, that she has taken possession from Sh. Rahat Hasan and that she wishes to continue the payment of rent. It was the landlady-Smt. Badru Nisa who herself discovered that the premises was locked after the death of Sh. Rahat Hasan and Smt. Asma Parveen and her brothers had taken possession. In fact, the landlady had lodged a criminal complaint which was also investigated. An FIR was lodged and Defendants had been granted bail. Thus, there is credibility to the statement of Smt. Badru Nisa that she herself discovered that the premises had been locked upon the death of Sh. Rahat Hasan. It was not a situation wherein Smt. Asma Parveen was living in the premises prior to the death of Sh. Rahat Hasan and continued to do so. She appears to have started living in the property with her husband later on. She could not produce the ration card or

any other document with the address, as claimed by her. Thus, she does not represent the estate of the deceased and her role cannot be termed to be that of an intermeddler. Though, the term intermeddler is quite broad, every person who takes illegal possession of a property where the deceased was staying on rent cannot become an inter-meddler. Thus, the mere fact that she was a nominee in the LIC policy cannot make her an intermeddler under Section 2(11) of CPC in order for her to inherit the tenancy of Sh. Rahat Hasan.

25. Moreover, from the records, it also appears that an eviction petition had been filed against Sh. Rahat Hasan wherein he was depositing the rent. Smt. Asma Parveen never represented the estate of the deceased even in these proceedings. The fact that Sh. Rahat Hasan was depositing rent under Section 27 of Delhi Rent Control Act is clear from a reading of para 6 of the suit for injunction filed by Smt. Asma Parveen. The said suit was disposed of in an appeal wherein the Plaintiffs here agreed that they will not forcibly dispossess Defendant No.3 without adopting due process. On the basis of this statement, the appeal filed by Smt. Asma Parveen against the rejection of injunction in her favour was withdrawn as satisfied. The fate of the said proceedings under Section 27 of the Delhi Rent Control Act is not clear. Smt. Asma Parveen had full knowledge of the deposit of the rent paid by Sh. Rahat Hasan in the court of Rent Controller. She did not treat herself as a tenant of the Plaintiffs and she also did not attorn to them as landlords. Thus, having not considered herself to be a tenant and having not paid a penny as rent, the Defendant No.3 cannot claim to be a protected tenant under the Delhi Rent Control Act.

26. Though there is no dispute to the proposition held in ***Mohd. Aslam v.***

Mohd. Ajmal (supra), i.e., that tenancy can be inherited, unfortunately, however, Smt. Asma Parveen chose not to claim inheritance or act as a legal representative. The term 'intermeddler' though has been interpreted liberally, in order to ensure that everyone who is in possession is not required to be sued separately. The role of an intermeddler is not to merely assert rights but also undertake the responsibilities in respect of the estate of the deceased. In the facts of the present case, Smt. Asma Praveen cannot be treated as an 'intermeddler' in respect of the estate of Sh. Rahat Hasan. Thus, a civil suit for possession was the only course of action which is available in law for the Plaintiffs.

27. The Trial Court has rightly held that the concept of adoption and successor by contract are not recognized in Muslim law. This is clear from a reading of *Dagadabai Vs. Abbas (2017) 13 SCC 705*. Thus, Smt. Asma Praveen cannot be recognised either as an adopted daughter or as a legal representative.

28. Under these circumstances, the Trial Court is right in granting the decree for possession in favour of the Plaintiffs. The Defendants are directed to vacate the suit property and handover vacant and peaceful possession jointly to the Plaintiffs within a period of four weeks.

29. Appeal is dismissed.

PRATHIBA M. SINGH
JUDGE

JULY 04, 2018/rahul