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

+ CM (M) 291/2022 & CM APPL. 15888/2022

NEHA SAINI AND ANR. Petitioners

Through: Mr. Harsh Kumar and Ms.
Sikha Gogoi, Advs.

versus

RAGHUBIR SINGH AND ANR. Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

07.07.2022

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1. This petition, under Article 227 of the Constitution of India, assails order dated 23rd March 2022, passed by the learned ADJ in CS 140/2019 (*Neha Saini v. Raghubir Singh*), on an application of the petitioners under Order XII Rule 6 of the Code of Civil Procedure, 1908 (CPC).

2. CS 140/2019 was filed by the petitioners against the respondent.

3. The petitioners claim to be the daughter and son of Narender Singh the pre-deceased son of Surender Kaur, who expired on 3rd November 2012, and, therefore, claim to be her Class-I legal heirs.

4. Surender Kaur married twice. Channa Singh, her first husband was the grandfather of the plaintiffs. Her second husband was



impleaded as Defendant 1 in the suit, Defendant 2 was the daughter of Surender Kaur, from her first husband.

5. The suit property is stated, in the plaint, to have been purchased by Channa Singh, the first husband of Surender Kaur, from funds sourced by disposing of ancestral property in the name of Surender Kaur.

6. Channa Singh is stated to have expired on 30th November 1983, leaving Surender Kaur, Narender Singh and Respondent 2 as his legal heirs.

7. Surender Kaur is stated, in the plaint, to have let out the first floor of the suit property to Respondent 1 during her lifetime.

8. On 12th November 2014, Surender Kaur was stated to have died intestate, leaving the petitioners and Respondents as her legal heirs. The plaint asserts, in para 10, that the petitioners and respondents became joint owners of the suit property, consequent on the demise of Surender Kaur.

9. The plaint further alleges that Defendant 1 had virtually taken control of all assets and properties of Surender Kaur and was seeking to deprive the petitioners of their shares. On the basis of these and other facts, the suit sought a declaration, in favour of the petitioners, that they were joint owners of the suit property, as well as partition of the suit property, apart from possession and permanent injunction.



10. During the pendency of the aforesaid suit, the petitioners filed an application under Order XII Rule 6 of the CPC, in which certain assertions made by the respondent have been stated, by the petitioner, to amount to admissions, entitling the petitioner to a decree on the basis thereof under Order XII Rule 6.

11. Said application under Order XII Rule 6 of the CPC stands disallowed by the impugned order dated 23rd March 2022, which reads thus:

“CS No. 140/19
Neha Saini vs. Raghubir Singh

23.03.2022

At 10:50 a.m.

Present: Mr. Harsh Kumar, Ld. Counsel for the plaintiff.
Mr. Dinesh Kumar, Ld. Counsel for defendant
Along with both the defendants.

Matter is listed for arguments on application under Order 12 Rule 6 CPC. By way of the application in hand as many as seven prayers have been made including the relief of decree of declaration, preliminary decree of partition, final decree of partition, decree of possession etc. etc.

Arguments heard.

This is a suit for declaration, partition, possession, etc. As per the plaint the property in question was owned by Late Smt. Surender Kaur who had married Twice. The suit has been filed by her Lrs from her first marriage. The second husband of the said deceased lady has been arrayed as defendant no.1 herein. Certain technicalities and minute details are involved in the present dispute between the parties. Moreover, there are no clear and unequivocal admissions on the part of the defendants in any sense so as to allow the



application under Order 12 Rule 6 CPC. Accordingly, the application in hand is hereby disposed of as dismissed being devoid of merits.

Put up on 18.07.2022 for replication/admission/denial of documents/framing of issues.”

(Raghubir Singh)
Additional District Judge-01
(East)/KKD/Delhi/23.03.2022”

12. A bare reading of the impugned order reveals that it is non-speaking in nature. Having set out the bare facts of the case, the learned ADJ has merely rejected the application on the ground that there were no clear and unequivocal admissions on the part of the defendants.

13. An application under Order XII rule 6 cannot be disposed of in such a laconic fashion. There has to be some modicum of reasoning in the order, meeting the grounds in the application.

14. It was imperative on the part of the learned ADJ to set out, in the order, the reasons why, according to him, the assertions which the petitioners regards as admissions were not so.

15. I deem it appropriate, therefore, to set aside the impugned order dated 23rd March 2022 and remand the application filed by the petitioners under Order XII Rule 6 to the learned ADJ for a *de novo* consideration and for a decision thereon on merits.



16. The petition stands allowed to the aforesaid extent, with no order as to costs.

C. HARI SHANKAR, J

JULY 7, 2022

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