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

+ **TR.P.(C.) 41/2022, CM APPL. 28149/2022**

QAYYUM KHAN

..... Petitioner

Through: **Mr. Shiv Verma, Advocate.**

versus

YAKUB KHAN AND ORS

..... Respondents

Through: **Mr. Abdul Sattar, Adv. for R-1 to 3.**
Ms. Shahana Farah and Ms. Sanna
Harta, Advs. for DDA.
Mr. Vineet Mehta, Adv. for R- 5 & 6.
Ms. Pavitra Kaur, Adv. for R-7.

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Date of Decision: 22nd November, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present transfer petition has been filed under Section 24 of the Code of Civil Procedure, 1908 for transfer of the following petitions to the same Court i.e.;

(1) Civil Suit no. 607070/2016 (old no.1987/1992) titled as “Qayyum Khan vs Manjit kaur & ors” pending in the Court of Civil judge-01, West Delhi, Tis Hazari Courts, Delhi, (**hereinafter referred as first suit**) and

(2) Suit no. 8711/16 (old no. 433/2014) titled as “Qayyum khan vs Yusuf Khan & ors” pending in the Court of ADJ-03, South-East District, Saket Courts, New Delhi. (**hereinafter referred as Second suit**)

2. The suit No.1 was initially filed before this Court in the year 1992 with the following prayers;

(1) The decree for declaration be passed in favour of the plaintiff against the defendants setting aside the Sale Deed dated 23.08.1991 as illegal & void and the defendants No.s 1 & 2 be directed to be the tenants of the plaintiff, and be further directed to hand over the legal possession of the premises to the plaintiff;

(2) A decree for permanent injunction may be passed in favour of the Plaintiff and against the defendants, its officials, agents, servants, etc., from selling, disposing, transferring and parting with the possession of the suit property to any other person;

(3) A decree for permanent injunction be passed in favour of the plaintiff against the defendant No.7 restraining the Delhi Development Authority from making any change in the mutation done in the same of the plaintiff in collusion with the defendants, with regard to the properties according to the will in his favour;

(4) Costs of the proceedings be also awarded.

3. Subsequently, the first suit was transferred to the district court upon enhancement of pecuniary jurisdiction of the district courts.

4. The second suit was filed in the year 2014 with the following prayers;

a) Grant a decree for declaration with consequential relief thereby declaring the alleged sale deed dated 22.06.2011 registered as document No.9731 in Book No.I, Vol. No.11257 on pages 1 to 7 on 25.06.2011 in the office of the Sub-Registrar-V, New Delhi by the defendant No.2 in favour of defendant No.4 and predecessor in interest of defendant No.5 to 9 namely Smt. Manjit Kaur and

witnessed by the defendant No.1 to be illegal, bogus, null and void, ineffective and inoperative against the rights of the plaintiff with respect to property comprised in Khasra No.594 (Municipal No.58) situated on Church Road, Bhogal, Jungpura, New Delhi and for the cancellation of the said documents with consequential relief in favour of the plaintiff;

- b) To pass a decree for permanent injunction restraining the defendants from claiming any right, title or interest in the suit property on the basis of the aforesaid document detailed in sub-para (a) above directly and through their agents, servants, attorneys, representatives etc. and further from using the said document in future and restraining them from selling, transferring and creating third party interest in the suit property on the basis of or on the face of the said document dated 22.06.2011 registered on 25.06.2011;*
- c) To grant a mandatory injunction thereby directing the defendant No.11 i.e. the Sub-Registrar-V, Mehrauli, New Delhi to delete the said document from the record of its office and deem the same as cancelled for all purposes whatsoever;*
- d) Grant the costs of this suit.*

5. The parties in both the suits are the children of late Sh. Chand Khan. The allegations in brief are that the defendants in both the suits who are the children of second wife of late Sh. Chand Khan unauthorizedly and illegally executed a sale deed of the property bearing Plot No. 109, Municipal No. 4936 (old)/58 (new) in Khasra No. 594, Church Road, Bhogal, Jangpura, New Delhi.
6. Both the suits are regarding the cancellation of the sale deed executed by such children of the second wife of late Sh. Chand Khan. In both the suits, the consequential reliefs have also been claimed. In both the suits,

the parties are same except that in the second suit, the DDA has also been impleaded.

7. In the first suit, the learned counsel for the petitioner submits that the evidence of the plaintiff in rebuttal is in progress, whereas in the second suit, the plaintiff evidence is yet to be lead.
8. The petitioner as well both the defendants i.e. the seller and the purchaser said that they have no objection if the suits are tried by the same Court. Both are in agreement that the evidence to be lead in both the suits are essentially identical.
9. Learned counsel for the DDA submits that the order may be passed in accordance with law.
10. Learned counsel for the respondent No.7 also states that she has no objection to the same.
11. Learned counsel for the defendants who are the seller and the purchaser submits that for the purpose of proper trial, both the suits may also be consolidated so that the evidence lead in the first suit may be lead in the second suit.
12. In view of the submissions made by both the parties and in order to ensure expeditious trial as well as avoid any duplication of evidence recorded and contradictory judgments, the Civil Suit no. 607070/2016 (old no.1987/1992) titled as “Qayyum Khan vs Manjit kaur & ors” pending in the Court of learned Civil judge-01, West Delhi, Tis Hazari Courts, Delhi is withdrawn and assigned to the Court of Court of Ld. ADJ-03, South-East District, Saket Courts, New Delhi where Suit no. 8711/16 (old no. 433/2014) titled as “Qayyum khan vs Yusuf Khan & ors” is already pending.

13. The transferor court is directed to transfer all the record pertaining to Civil Suit no. 607070/2016 (old no.1987/1992) titled as “Qayyum Khan vs Manjit kaur & ors” to the transferee court.
14. The Court of learned ADJ-03, South East, Saket Court may consider the request for consolidation of both the suits in accordance with law so as to avoid duplication of the recording of the evidence.
15. Copy of this order be sent to the court of learned Principal District & Sessions Judge, West Delhi, Tis Hazari Courts, Delhi and learned Principal District & Sessions Judge, South-East District, Saket Courts, New Delhi.
16. Parties are directed to appear before learned Principal District & Sessions Judge, South-East District, Saket Courts on 5th December, 2022.
17. With the above directions, the petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 22, 2022

Pallavi