



#S-14

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 12.05.2023

FAO(OS) 61/2023, CM APPL. 24893/2023 (Exemption) & CM APPL. 24894/2023 (Delay)

PARAMJIT SINGH

..... Appellant

Versus

HARDAMAN SINGH & ORS.

..... Respondents

Advocates who appeared in this case:

For the Appellant:

Mr. Hrishikesh Baruah, Mr. Kshitij Paliwal & Mr. Sumit Saini, Advocates.

For the Respondents:

Mr. Kirti Uppal, Senior Advocate with Mr. Dhruv Chawla, Mr. Vaibhav Chawla & Ms. Riya Gulati, Advocates for R-1,2 & 3.

Mr. Aviral Tiwari, Advocate for R-4.

Mr. Raman Kapur, Senior Advocate with Mr. Dhiraj Sachdeva, Advocate for R-5 & 6.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

JUDGMENT



SIDDHARTH MRIDUL, J. (OPEN COURT)

1. The instant appeal under Section 104 read with Order XLIII Rule 1 (r) and Section 10 of the Delhi High Court Act, 1996 of the Code of Civil Procedure, 1908, has been instituted on behalf of the appellant, challenging the order dated 07.03.2023, passed by the learned Single Judge in I.A. No. 4544/2023, in CS (OS) No. 166/2023. praying as follows:

- ‘(A) Set aside the order dated 07.03.2023 passed by the Learned Single Judge in I.A. No. 4544 of 2023 in CS (OS) No. 166/2023 in so far as it failed to grant ad interim injunction to the present Appellant and against the Respondents.*
- (B) Pass such other and further order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.’*

2. The brief facts of the case are, that the appellant was born in the family of Mr. Jeet Singh, who was the brother of the testatrix, in the subject suit. Soon after birth, the appellant was adopted by Ms. Harbans Kaur, who was the sister of the testatrix. Aged about 8-9 years, the appellant was further adopted by Ms. Darshan Kaur and her husband Mr. Raghubir Singh. They started residing at Suit Property-1. Later, the adoptive father of the appellant passed away without any biological children and divided the estate in the favour of his two wives. Ms.



Darshan Kaur later passed away, and a little after that, the appellant filed suit seeking partition of the estate of Late Darshan Kaur, on the basis of registered will dated 27.03.2009.

3. The appellant, by way of the instant appeal, is partly challenging the impugned order dated 07.03.2023, passed by the learned Single Judge whereby the appellant states that the learned Single Judge has wrongly come to the conclusion that the appellant/plaintiff has not made out a prime facie case for the grant of ad interim relief. It is also the case of the appellant that the learned Single Judge did not consider that the appellant/plaintiff is a beneficiary under the registered will dated 27.03.2009.

4. The subject application being I.A. No. 4544/2023, for grant of injunction restraining the respondent nos. 1-6, from selling, allowing, alienating, transferring, parting with the possession, and /or creating any kind of third party interests, is also listed before the learned Single Judge on 23.05.2023, for further adjudication.

5. In view of the circumstance that the application under the provisions of Order XXXIX Rule 1 & 2 being **I.A. No. 4544/2023**, which is still pending adjudication before the learned Single Judge, and is scheduled to be taken up for hearing on 23.05.2023; Mr. Hrishikesh



Baruah, learned counsel appearing on behalf of the appellant seeks leave to withdraw the present appeal, at this stage, with liberty to canvas all legal and factual issues articulated in the present appeal, before the learned Single Judge, in the first instance, in accordance with law.

6. Leave and liberty granted.

7. The appeal is dismissed as withdrawn, and disposed of accordingly. Pending applications also stand disposed of.

8. Needless to state that the learned Single Judge shall determine the subject application, as *expeditiously* as possible, after affording an opportunity of hearing to learned counsel appearing on behalf of the parties, but without granting any unwarranted adjournments.

12. A copy of this judgment be uploaded on the website of this Court *forthwith*.

**SIDDHARTH MRIDUL
(JUDGE)**

**TALWANT SINGH
(JUDGE)**

MAY 12, 2023
Aanchal