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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 25th October, 2024*+ **C.R.P. 370/2023, CM APPL. 46169/2019**

TIKA RAM

.....Petitioner

Through: Mr. Nirmal Kumar, Advocate with
Petitioner in person.

versus

1. **CHET RAM**S/o Late Shri Prabhati Ram,
2/18, Four Storey Flats, Arya Pura,
Subzi Mandi,
Delhi-110 007

.....Respondent No. 1

2. **VINOD KUMAR**S/o Shri Chet Ram,
H. No. 166, Gali No.06, Khasra No. 123/19/5,
25 Ft. Road, Cross Road, Sant Nagar, Burari,
Delhi - 110 084.

.....Respondent No. 2

3. **KAPIL KUMAR**S/o Shri Chet Ram,
H. No. 166, Gali No.06, Khasra No. 123/19/5,
25 Ft. Road, Cross Road, Sant Nagar, Burari,
Delhi - 110 084.

.....Respondent No. 3

4. **TATA POWER DELHI DISTRIBUTION LTD.**Regd, Office at: NDPL House,
Hudson Lines, Kingsway Camp,
Delhi-110009

.....Respondent No. 4

5. **DELHI JAL BOARD**Head Office : Vamnalaya Phase - II,
Karol Bagh,
New Delhi – 110005

.....Respondent No. 5

Through: Mr. Ravi Tikania, Advocate for R-1
and R-2.



CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. A Petition under Article 227 of the Constitution of India, 1950 has been filed against the Order dated 04.04.2019 *vide* which the Application under Order XII Rule 6 CPC filed on behalf of the Petitioner (*Plaintiff*), has been dismissed.
2. *Briefly stated*, the Plaintiff had purchased the property bearing House No.166, Gali No.6, Khasra No.123/19/5, 25 Ft. Road, Cross Road, Sant Nagar, Burari *vide* Sale Deed dated 30.10.1984. Thereafter, the Plaintiff/revisionist out of sheer respect executed a General Power of Attorney ('GPA') dated 16.04.1998 in favour of Defendant No.1, Chet Ram his elder brother. However, he in sheer disregard, has misused his GPA to transfer the Suit property to Respondent Nos. 2 and 3, his sons. He has also executed a Will and GPA in their favour. The Plaintiff further asserted that he had cancelled GPA of 1998 *vide* Notice dated 01.03.2015 and had also served a Legal Notice dated 27.02.2015. Therefore, the Defendant could not have acted on the basis of this GPA.
3. The plaintiff thus, filed the Suit for *Declaration for declaring GPA dated 16.10.2010 executed by Defendant No.1 in favour of his son as null and void; decree for Possession; recovery of money; Mandatory Injunction and Permanent Injunction*.
4. The Suit was contested by the ***Defendants who had taken a specific plea in their Written Statement*** that the Plaintiff was a student of law at the time of execution of the Sale Deed. In fact, the entire money for purchase of the Suit property had been arranged by Defendant No.1, but out of love and



affection and on the instructions of the mother, the Sale Deed was registered in the name of the Plaintiff. It was further asserted that there was no constructed house at the time of purchase of the property, but it was a plot of land on which Defendant No.1 subsequently raised the construction and has all throughout been in possession of the property. A valid GPA had been executed by the Plaintiff in his name on 16.04.1998 in his favour solely because the entire sale consideration had been paid by him. He claims to have validly executed the GPA and the Will in favour of his sons, on the basis of this GPA executed by the plaintiff in his favour.

5. Submissions heard.

6. It is the case of the Plaintiff himself that a GPA had been executed by him in 1998 in favour of Defendant No.1. The perusal of the GPA shows that it also gave the authority to Defendant No.1 to sell the property and to accept the consideration. However, the Plaintiff has claimed that he cancelled the GPA by giving a Legal Notice dated 27.02.2015.

7. It is a moot point whether Defendant No.1 or his sons have acquired any ownership on the basis of the documents allegedly claimed to have executed by Defendant No.1 in favour of his sons. The Trial Court has rightly observed that there are disputed facts which need to be established by way of evidence. There is no clear, unambiguous admission which could entitle the Plaintiff to a Decree on admissions under Order XII Rule 6 CPC.

8. There is no infirmity in the Impugned Order dated 04.04.2019 and the Petition is hereby, dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 25, 2024/va