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

+ **RFA 624/2024**
SMT. MINESH

.....Appellant

Through: Mr. Saahil Mongia, Advocate

versus

SMT. KANTI

.....Respondent

Through: Mr. Deepak Acharya and Mr.
Saurabh, Advocate

+ **RFA 625/2024**
SMT. MINESH

.....Appellant

Through: Mr. Saahil Mongia, Advocate

versus

SMT. KANTI

.....Respondent

Through: Mr. Deepak Acharya and Mr.
Saurabh, Advocate

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **05.12.2024**

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 54710/2024 (exemption) in RFA 624/2024

CM APPL. 54712/2024 (exemption) in RFA 625/2024

1. Allowed, subject to all just exceptions.

RFA 624/2024 & CM APPL. 54709/2024 (stay)

RFA 625/2024 & CM APPL. 54711/2024 (stay)

2. Learned counsel for respondent appearing on advance intimation accepts notice.



3. The appellant has assailed the judgment and decree dated 04.03.2024 whereby suit of the appellant for recovery of possession was dismissed and counter claim of the respondent was decreed against the appellant.
4. Digitized record of the trial court be requisitioned for the next date of hearing.
5. Learned counsel for respondent shall file written submissions not exceeding five pages within four weeks.
6. Learned counsel for appellant presses application for stay on operation of the impugned judgment and decree. Parties are real sisters. The appellant claimed to have purchased the subject property from the respondent and thereafter allowed the respondent to stay in the same. On the other hand, the respondent claimed that the documents relied upon by the appellant were fraudulently got signed from her after she lost her husband. In the suit of the appellant for recovery of possession, the respondent filed a counter claim seeking same relief. The learned Trial Court after detailed analysis arrived at conclusion that there was no written agreement to sell, though the respondent executed and got registered a General Power of Attorney regarding the subject property; that the respondent also executed a Will in favour of the appellant regarding the subject property. Observations of the learned Trial Court in the impugned judgment at *pdf page* 56-59 of the paperbook are relevant in this regard. The learned Trial Court concluded that there is no material to show transfer of title from the respondent to the appellant and the case set up by the appellant herself is that the subject property was owned by the respondent. Under these circumstances, the suit was dismissed and counter claim was decreed in favour of the respondent.



7. Learned counsel for appellant submits that the agreement to sell between the parties was an oral agreement to sell. But if parties could reduce into writing the General Power of Attorney and the Will, it remains unexplained as to why they would not reduce the agreement to sell also in writing. Further, according to the testimony of the appellant, she paid Rs. 9,00,000/- to the respondent towards sale consideration, but in the General Power of Attorney, the amount paid was shown as Rs. 1,00,000/-. According to learned counsel for appellant, lesser amount was shown at request of respondent.

8. Considering the overall circumstances described above, I do not find it a fit case to restrain the operation of the impugned judgment and decree.

9. At this stage, learned counsel for appellant seeks a passover to obtain instructions of his client.

10. Be awaited.

GIRISH KATHPALIA, J

DECEMBER 5, 2024/as

11. In this call, learned counsel for appellant on instructions of his client seeks permission to withdraw both these appeals with the request that her possession over the subject property be protected for a period of six months. Learned counsel for appellant on instructions of his client undertakes that the appellant shall vacate the subject premises on or before 05.06.2025.

12. Learned counsel for respondent who is present in this call, fairly submits that his client has no objection to grant of protection to the appellant for a period of six months.



13. Under these circumstances, both these appeals and accompanying applications are dismissed as withdrawn with the direction that the operation of the impugned judgment and decree shall remain stayed till 06.06.2025. However, it is made clear that if by 06.06.2025 the appellant does not vacate the subject property, the respondent shall be at liberty to get the impugned decree executed in accordance with law.

GIRISH KATHPALIA, J

DECEMBER 5, 2024/as

[Click here to check corrigendum, if any](#)