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

% *Date of decision: 23rd December, 2024*

+ **C.R.P. 386/2024 & CM APPL. 75802/2024**

1. **SMT. RAVI BALA NIJHAWAN (DECEASED) THROUGH LRS**
PETITIONER NOS. 2 & 3Petitioner No. 1

2. **VINOD NIJHAWAN**
S/o Late Manmohan SwaroopPetitioner No. 2

3. **GAURI NIJHAWAN**
D/o Shri Vinod NijhawanPetitioner No. 3

Both residents of: -

E-173, Ground Floor,
Sushant Lok-3, Sector-57,
Gurugram-122003, Haryana

Through: Mr. Yashvir Kumar, Mr. A.K. Nigam
& Mr. Yadvendra Sareena,
Advocates.

versus

RANVIJAY SINGH @ GULLU @ AARYAN (MINOR)

Through his mother and Natural Guardian,
Smt. Gurmeet Kaur,
R/o 940-C, LIC Colony, Sector-4,
Mundi Kharar, District Mohali

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)



1. The present Revision Petition under Section 115 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC, 1908"*) has been filed on behalf of the Petitioners/Defendant against the Order dated 17.09.2024 *vide* which the Application under Order VII Rule 11 of CPC, 1908 filed on behalf of the Petitioners (*Defendants in the Suit*), has been dismissed by the learned District Judge.
2. ***Briefly stated***, the marriage of Sh. Gaurav Nijhawan, deceased son of the Revisionists No.1 and 2 was solemnized with Ms. Gurmeet Kaur, mother and natural guardian of Respondent, Ranvijay Singh (*minor through his mother*) according to Sikh customs and rites and Master Ranvijay was born on 22.06.2012 from their wedlock.
3. The marriage between Gaurav Nijhawan and Ms. Gurmeet Kaur could not last long as their relationship turned sour and eventually FIR No.204 dated 19.11.2013 was registered under Section 498-A/406 of the Indian Penal Code, 1860 at Police Station City Kharar, District SAS Nagar, Mohali.
4. While the Bail Application of Sh. Gaurav Nijhawan and her mother-Smt. Ravi Bala Nijhawan was pending, the High Court of Punjab and Haryana at Chandigarh referred the matter to Mediation and Conciliation Centre, where the parties arrived at a Compromise/Settlement dated 01.05.2014.
5. It was agreed that Ms. Gurmeet Kaur shall be the natural guardian of the son and during their lifetime; neither she nor her son would file any Civil case to claim a share in the separate of ancestral property of Late Gaurav Nijhawan. A sum of Rs.15 lakhs was accepted by Smt. Gurmeet Kaur for the betterment of future interest of the Respondent (son). After settling all



the disputes, past, present and future, a specific undertaking was given by Ms. Gurmeet Kaur about not filing any Suit in regard to property of Gaurav Nijhawan either herself or on behalf of the son.

6. The Compromise Deed was accepted and the Bail was granted. The FIR was quashed against Sh. Gaurav Nijhawan and his family members. A Decree of Divorce by Mutual Consent was granted to the parties *vide* Judgment dated 06.02.2015 in HMA Case No.141 of 2014 by learned ADJ, SAS Nagar, Mohali.

7. Smt. Ravi Bala Nijhawan, Mother of Sh. Gaurav Nijhawan (*since deceased*) in order to facilitate start of a new life of her son, Gaurav Nijhawan, gifted him a LIG Flat bearing No.499, Kaveri Apartments, Vasant Kunj, New Delhi, which had been purchased by her from her own savings. But later on, she fell sick and the family was in dire need of money.

8. Consequently, Sh. Gaurav Nijhawan during his life time entered into an Agreement to Sell dated 22.07.2018, with respect to the said LIG Flat with Shri Pramod Kumar Bindlish for which an advance consideration of Rs.7 lakhs was taken. However, in the meanwhile, Shri Gaurav Nijhawan died on 04.08.2018 before the Sale Deed could be executed.

9. Smt. Gurmeet Kaur sensed an opportunity in the demise of Shri Gaurav Nijhawan and being fully aware that the grandparents of the Respondent were nearing the end of their lives and may not survive long, with the sole motive to dishonestly enrich herself, filed a Suit of Partition, Declaration, Rendition of Accounts and Permanent Injunction *vide* Civil Suit No.1092 of 2018 in the Court of learned District Judge, New Delhi in



the name of her minor son/Respondent.

10. During the pendency of the Suit, Smt. Ravi Bala Nijhawan died on 04.05.2019.

11. The Respondent filed the Suit questioning the Compromise Deed which resulted into a Judgment and Decree with the averments that the relevant clause was void *ab initio* and not binding in the eyes of law.

12. The Revisionists/Defendants claimed that Smt. Gurmeet Kaur was estopped from filing a Suit in a personal or representative capacity in regard to the separate or ancestral property of Late Shri Gaurav Nijhawan. The Applicants, therefore, filed an Application under Order VII Rule 11 of CPC, 1908 for rejection of the Suit, but the Application was dismissed by impugned Order dated 17.09.2024.

13. The ***impugned Order is challenged*** on the ground that the Compromise became final under Order XXIII Rule 3A of CPC, 1908. It was duly acted upon by the parties for five years and the observations of the learned Trial Court that the question of binding nature of the Compromise Deed shall be decided at trial, is flawed. It is a pure question of law which ought to have been determined while adjudicating the Application under Order VII Rule 11 of CPC, 1908. Furthermore, the relief of Partition, Declaration, Rendition of Accounts etc. could have been granted only if the Compromise Decree dated 06.02.2015, is set aside.

14. However, the Respondent by clever drafting to make the Suit maintainable, has taken the pleas without disclosing the Compromise Deed. It is asserted that the Respondent/Plaintiff is a minor and he cannot resort to Civil litigation through his mother who was a party to the Compromise Deed



which is binding upon her. Furthermore, the Respondent is questioning the act of his own mother who accepted Rs.15 lakhs in the Compromise Deed. In fact, the Plaintiff is challenging the acts of his mother in entering into the Compromise Deed and she in fact should have been made a Defendant. It is, therefore, submitted that the Suit is liable to be rejected.

15. None has appeared on behalf of the Respondent/Plaintiff.

16. **Arguments heard** on behalf of the Revisionists/Defendants and an opportunity was given to the Respondents.

17. **Submissions Heard and Record perused.**

18. It is not in dispute that the suit property in regard to which Partition has been sought by the Respondent/Plaintiff, is a house which is in the name of his deceased father. The other two properties are House No.2645, Ground Floor, C-2, Vasant Kunj and one shop outside gate of C-2, Vasant Kunj.

19. The **main ground** on which the rejection of the Suit was sought under Order VII Rule 11 of CPC, 1908 was that the Respondent through his mother had entered into a Compromise Deed dated 01.05.2014 which has attained finality and has been acted upon by the parties. Moreover, Rs.15 lakhs have been accepted under the Compromise Deed and the Respondent/Plaintiff through his mother had given an undertaking of not claiming any share in the separate and ancestral properties of the father Late Shri Gaurav Nijhawan. Therefore, the Suit is liable to be rejected.

20. Admittedly, the mother and father of the Plaintiff had entered into a Compromise Deed dated 01.05.2014 which was accepted and acted upon and all the litigation *inter se* the parents got settled. Pertinently, the mother though had an absolute right to settle all her claims with the father, which



included the right to maintenance and property, but she was not competent to settle the right, title and entitlements of the son vis-à-vis the properties of his father.

21. In most of the mediated settlements, the right of the child were being jeopardised or was being used as a tool to make the mother give up the legitimate rights of a child in order to settle other matrimonial disputes. The Apex Court in the case of Ganesh vs. Sudhir Kumar Srivastava, Civil Appeal No.40311/2019 as well as in Vishnu Jaiswal and Ors. vs. State of NCT of Delhi & Anr., 2020 SCC OnLine Delhi 1504 decided by the Coordinate Bench of this Court, took an exception to such like *Clauses* being introduced in the Compromise Deeds and declared them as void *ab initio* and not binding on the minor child.

22. *In the present case as well*, though the mother entered into a Compromise Deed with the father, she was not competent to enter into any kind of Settlement on behalf of the child in regard to his rights in property of his father. Therefore, the said Clause in the Compromise Deed giving up the rights of the child, was void *ab initio*. So being the case, the Respondent/Plaintiff cannot be held to be not entitled to make a claim for his share in the properties of his father, whether separate or ancestral, which are a matter of trial.

23. The learned Trial Court has, therefore, rightly rejected the Application under Order VII Rule 11 of CPC, 1908. There is no merit in the present Revision Petition, which is hereby dismissed.

2024:DHC:10215



(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 23, 2024

S.Sharma/va

Signature Not Verified

Digitally Signed
By: VIKAS AKORA
Signing Date: 17.02.2025
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C.R.P. 386/2024

Page 7 of 7