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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 2103/2007 & I.A. 4058/2025

M/S CHETANYA BUILDCON PVT. LTD.

.....Plaintiff

Through: Mr. Romil Pathak, Mr. Manoj Mishra,
Adv.

versus

SHRI LALIT MOHAN TEWARI & ORS.

.....Defendants

Through: Ms. Mahima Dang, Adv. for D-2,4,5.
Ms. Anshu Mahajan, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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22.04.2025

I.A. 4057/2025-EX.

1. Allowed subject to all just exceptions.
2. The application stands disposed of accordingly.

**REVIEW PET. 83/2025 - FOR REVIEW & CLARIFICATION OF
JUDGMENT DT. 28.08.2024 (BY DEFT.1)**

3. This is an application on behalf of defendant No.1 filed under Section 114 read with Order XLVII Rule 1 and Section 151 of the Code of Civil Procedure, 1908, seeking review and clarification of the judgment dated 28.08.2024 passed in CS(OS) 2103/2007 and more particularly paragraphs 3, 5, 104 and 112 of the said judgment, which read as under:-

“3. The defendants are successor in interest of Late Sh. B.D. Tewari, who was the owner of the property No. 167, Jor Bagh, New Delhi measuring 575 sq. yards (hereinafter referred to as "suit property"). Late Sh. B.D. Tewari died intestate on

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23.07.1973, leaving behind the following legal heirs:-

- (i) Mrs. Janki Devi, wife of Late Sh. B.D. Tewari,
- (ii) Mr. Lalit Mohan Tewari, son of Late Sh. B.D. Tewari (Defendant No. 1/OwnerNo. 1),
- (iii) Maj. Gen K.C. Tewari, son of Late Sh. B.D. Tewari,
- (iv) Mrs. Manjula Joshi, daughter of Late Sh. B.D. Tewari (Defendant No. 2/Owner No. 2),
- (v) Mrs. Meena Joshi, daughter of Late Sh. B.D. Tewari (Defendant No. 4/ Owner No. 4), and
- (vi) Mrs. Mridula Pande, daughter of Late Sh. B.D. Tewari (Defendant No., 5/ Owner No. 5).

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5. Subsequently, Mrs. Janki Devi, wife of Late Sh. B.D. Tewari, also died intestate on 07.08.1988. Thus, the defendants herein became joint owners of the suit property.

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104. It is an admitted position that the parties have an equal share in the suit property. A perusal of the facts shows that admittedly each defendant has 20 percent of the undivided share in the suit property. The plaintiff along with the defendant no. 1 and 3(a) to (e) entered into subsequent agreements wherein the sale consideration payable to the defendant no. 1 and 3(a) was enhanced. This enhancement gave an undue advantage to defendants no 1 and 3(a) over defendants no. 2, 4, and 5.

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112. *Despite time being of the essence of the contract and despite the plaintiff being neither ready nor willing to perform its obligations, the plaintiff has dragged a valuable property in litigation for more than 17 years. The defendants being owners of considerable wealth (in the form of 20% share each in the suit property) were unable to enjoy the fruits of the property on account of the pendency of the present litigation, the defendants could not enter into any other agreement to sell the suit property, as every intending purchaser buying a valuable property (such as the present one being in Jor Bagh, New Delhi, i.e. is one of the most affluent areas in Delhi) would have asked for a declaration "that the property is free from all previous agreements to sell, encumbrances, litigation etc The defendants could not have given that declaration and hence, were unable deal with the property in any way or manner."*

4. It is stated that the said judgment incorrectly records that it is "admitted" by the defendants that Late Mr. B.D. Tewari died intestate and the defendants are each 20% equal owners of the suit property.
5. The defendant Nos. 2, 4 and 5 had filed letters of administration regarding the estate of B.D. Tewari in PC/201/1998, in which defendant No.1 has propounded a will dated 20.07.1973 of B.D. Tewari.
6. Hence, the share of the defendants *qua* the property in question is yet to be determined by the probate of the will.
7. Even though the same is not clearly mentioned in the written statement

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or in the evidence affidavit, the same finds mention in the cross-examination of defendant No.1.

8. For the said reasons, there is an error apparent in the judgment dated 28.08.2024 and the present application needs to be allowed.
9. For the said reasons, paragraphs 3, 5, 104 and 112 of the judgment dated 28.08.2024 stand modified. Paragraph 3 of the judgment shall read as under:

“3. The defendants are successor in interest of Late Sh. B.D. Tewari, who was the owner of the property No. 167, Jor Bagh, New Delhi measuring 575 sq. yards (hereinafter referred to as "suit property"). Late Sh. B.D. Tewari died ~~intestate~~ on 23.07.1973, leaving behind the following legal heirs:-

- (i) Mrs. Janki Devi, wife of Late Sh. B.D. Tewari,*
- (ii) Mr. Lalit Mohan Tewari, son of Late Sh. B.D. Tewari (Defendant No. 1/Owner No. 1),*
- (iii) Maj. Gen K.C. Tewari, son of Late Sh. B.D. Tewari,*
- (iv) Mrs. Manjula Joshi, daughter of Late Sh. B.D. Tewari (Defendant No. 2/Owner No. 2),*
- (v) Mrs. Meena Joshi, daughter of Late Sh. B.D. Tewari (Defendant No. 4/ Owner No. 4), and*
- (vi) Mrs. Mridula Pande, daughter of Late Sh. B.D. Tewari (Defendant No., 5/ Owner No. 5).*

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5. Subsequently, Mrs. Janki Devi, wife of Late Sh. B.D. Tewari, ~~also~~ died intestate on 07.08.1988. Thus, the

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defendants herein became co-owners of the suit property (the same is mentioned by the defendant No.1 itself in its evidence by way of affidavit).

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104. ~~It is an admitted position that the parties have an equal share in the suit property. A perusal of the facts shows that admittedly each defendant has 20 percent of the undivided share in the suit property.~~ The plaintiff along with the defendant no. 1 and 3(a) to (e) entered into subsequent agreements wherein the sale consideration payable to the defendant no. 1 and 3(a) was enhanced. This enhancement gave an undue advantage to defendants no 1 and 3(a) over defendants no. 2, 4, and 5.

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112. Despite time being of the essence of the contract and despite the plaintiff being neither ready nor willing to perform its obligations, the plaintiff has dragged a valuable property in litigation for more than 17 years. The defendants being owners of considerable wealth ~~(in the form of 20% share each in the suit property)~~ were unable to enjoy the fruits of the property on account of the pendency of the present litigation, the defendants could not enter into any other agreement to sell the suit property, as every intending purchaser buying a valuable property (such as the present one being in Jor Bagh, New Delhi, i.e. is one of the most affluent areas in Delhi) would have asked for a declaration "that the property is free from all



previous agreements to sell, encumbrances, litigation etc The defendants could not have given that declaration and hence, were unable deal with the property in any way or manner.”

10. Ms. Dang, learned counsel for the defendant Nos. 2, 4 and 5 objects to the said clarification / modification on the ground that there is no will propounded by defendant No.1.
11. The same finds mention in the cross-examination of defendant No.1 by the plaintiff on 10.11.2010.
12. In view of the factual matrix of the present case, this Court, while deciding the suit, cannot decide the shares of the defendants *inter se vis-a-vis* the property in question and the same shall be subject to the outcome of the letters of administration pending before the competent Court.
13. The application is allowed and disposed of in the aforesaid terms. Except the above paragraphs, the judgment dated 28.08.2024 is unaltered.

JASMEET SINGH, J

APRIL 22, 2025 / (MS)

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