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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of decision: 10th January, 2024**
+ CS(OS) 3280/2011, I.A. 3000/2019, I.A. 3002/2019, 7394/2019,
7395/2019, I.A.17320/2019, I.A. 17322/2019, I.A. 17323/2019, I.A.
17324/2019

ROOMA BHUTANI Plaintiff
Through: Mr. Imran Ali and Mr. Maneesh
Saxena, Advocates.
versus
SANJEEV SAPRA & ORS Defendants
Through: Mr. Gurvinder Singh, Advocate for
D3 & LR's of D2.
Mr. Ashish Negi, Advocate for
applicant in I.A. 17319/2019.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

I.A. 7393/2019 under Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 for joining the applicant Ramesh Chand Sapra as defendant as the applicant and his sisters are also the necessary parties of this present case)
I.A. 17319/2019 under Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 for joining the applicant Meenu Gandhi as defendant as the applicant and her other relatives are also the necessary parties of this present case)
I.A.17321/2019 under Order 1 rule 10(2) of the Code of Civil Procedure, 1908 for joining the applicant Pushpa Juneja as defendant as the applicant and her other relatives are also the necessary parties of the present case)

1. The above three applications have been filed on behalf of the applicants for being impleaded as defendants being a necessary party in the present suit.
2. Shri Abnashi Dass Sapra from his first marriage has two children



Ramesh Chand Sapra and Pushpa Sapra @ Pushpa Aneja and from his second marriage he has one daughter Meenu Sapra @ Meenu Gandhi and one son Ashok Kumar Sapra. Ashok Kumar Sapra has died while Shri Abnashi Dass Sapra is survived by three applicants, Ramesh Chand Sapra, Pushpa Sapra and Meenu Sapra.

3. The applicants have submitted that after the partition of India in 1947 Shri Abnashi Dass Sapra alias Abinashi Ram alias Abnashi Ram alias Abinashi Dass Sapra, father of the applicants along with the family members and relatives came to India. Shri Sadhu Ram, brother of Shri Abnashi Dass Sapra along with family members also came to India. The Ministry of Rehabilitation started a scheme for Rehabilitation of the Refugees who came to India from Pakistan and allotted plots/land/quarters for the Rehabilitation. The possession of plot/property/quarter No.II-L-100, Lajpat Nagar, Delhi was given to Shri Abnashi Dass Sapra eing a Refugee, by Ministry of Rehabilitation.

4. The applicants submitted that as per the knowledge received from Shri Ramesh Chand Sapra, Quarter No.II-L-100, Lajpat Nagar, Delhi was allotted to Shri Abnashi Dass Sapra their father, though the documents of allotment are available in the office of L&DO, Nirman Bhawan, New Delhi. After getting the plot allotted, Shri Abnashi Dass Sapra used to deposit the rent regularly in respect of this property against proper receipts which were issued by the concerned Department.

5. The adjoining property, i.e. Quarter No.II-L-99, Lajpat Nagar, Delhi was allotted to Shri Sadhu Ram brother of Shri Abnashi Dass Sapra and uncle of the applicants and he also used to pay rent regularly in respect of the quarter allotted to him..



6. The applicants in their respective applications, have submitted that Abnashi Dass Sapra, their father died on 16.09.1955. Thereafter, Smt. Shanti Devi, the second wife of Abnashi Dass Sapra along with her kids went to live in her parental home at House No.6450, Block-8, Dev Nagar, New Delhi. The Ministry of Rehabilitation, Government of India tried to contact Smt. Shanti Devi, who was also a legal heir, regarding her property rights in Quarter No.II-L-100, Lajpat Nagar.

7. It is asserted that the Allotment documents of the property in the name of deceased father were in the possession of brother of Smt. Shanti Devi which have been handed over to them by Meenu Sapra only two months back. After getting the information about their ownership, Ramesh Chand Sapra was contacted and the information was shared with him. The applicants also came to know about the present suit for partition in respect of property No.L-100 and also L-99.

8. It is claimed that Rooma Bhutani, the plaintiff and defendants Sanjiv Sapra to the suit, knew very well that Quarter No.II-L-100 was allotted in the name of Abnashi Dass Sapra, father of the applicants and the plot was developed from the income and funds of Abnashi Dass Sapra. The suit for partition has been filed by the plaintiff without giving any information to the applicants and no Notice of the partition suit was ever served upon them.

9. The applicants have claimed that the plaintiffs have failed to place on record the copies of the Sale Deed, Lease Deed issued by Government of India in favour of Shri Sadhu Ram in respect of the two suit property namely L-99 and L-100. It is asserted that without the requisite documents on record, the ownership of the parties to the suit property cannot be ascertained. A prayer is, therefore, made that the applicants in the three



applications may be impleaded as a party.

10. No formal reply has been filed by the parties to the applications.

11. **Submissions heard.**

12. The case of the applicants is that on partition, as part of rehabilitation of their father Abnashi Dass Sapra in India, the Ministry of Rehabilitation had given the property L-100 to Abnashi Dass Sapra. However, there is not a single document annexed by the applicants along with their application to support their claim of Abnashi Dass Sapra being the allottee property No.L-100.

13. The applicant *Meenu Sapra @ Meenu Gandhi* has annexed with her application her Aadhar Card showing her address of Shikohpur, Gurgaon. The Higher Secondary School Certificate issued by CBSE and copy of the Letter dated 17.08.1955 written by Ministry of Rehabilitation to Smt. Shanti Devi requesting her to appear in the office along with all her papers in her possession relating to her claim and compensation application and the Courier Receipt dated 02.12.2019.

14. The applicant *Pushpa Devi* has annexed her Aadhar Card at the address of A-42, Lajpat Nagar-I and her PAN Card.

15. The applicant *Ramesh Chand Sapra* has relied upon the Courier Receipt dated 02.12.2019, letter dated 05.03.1952 in respect of rehabilitation benefit enjoyed by the claimant Sadhu Ram and Abnashi Dass Sapra, wherein it is asserted that the two brothers had jointly filed their claim in respect of five properties in Sillanwali and had been allotted Refugee Quarters at Lajpat Nagar. Property No.1 is a shop in Bazar and each shop was valued at Rs.9600 and total of eight shops was valued at Rs.76,800/-. The total claim of the claimants was assessed at Rs.1,65,000/- by the



Claims Officer vide Letter bearing Index No.P/SH-13 of 1989. It was also indicated in this letter that rehabilitation benefit have been enjoyed by the claimant and they have been allotted Government Refugee Quarters.

16. None of the documents that have been filed by each of the applicants show that property No.I-L-100 was ever allotted to Abnashi Dass Sapra, father of the applicants. The letter dated 05.03.1952 only indicates that they had filed their claims and the Quarters had been allotted. However, it is nowhere indicated what were the quarters allotted each of them or were jointly allotted along with Sadhu Ram father of parties to the present suit in respect of the suit property. The applicants have not been able to show even a single document to establish that their father was joint allottee right, title or interest in the suit properties. Therefore, they are neither a necessary nor proper party to the present suit for partition.

17. The above three applications are, therefore, dismissed.

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18. A Preliminary Decree has already been made vide Order dated 23.08.2018. The Local Commissioner has already submitted his Report dated 24.11.2018, wherein he has submitted that the property is not amenable to partition by metes and bounds.

19. In the circumstances, it is hereby directed that the suit property be sold by way of auction and the sale proceeds to be distributed amongst the parties as per their respective shares already determined in the Preliminary Decree dated 23.08.2018. It is hereby clarified that before holding a Court Auction, the parties are at liberty to buy out the share of the other parties. If there is no consensus arrived at within three months, the property be sold through auction and the proceeds divided amongst the parties.



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20. The Final Decree of Partition is accordingly passed.
21. Decree Sheet be prepared.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 10, 2024
va

Signature Not Verified

Digitally Signed By: AHIL
SHARMA

Signing Date: 18.01.2024
19:12:20

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