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

+ **CS(OS) 621/2018 & I.A. 16552/2018, O.A. 131/2019 I.A. 15259/2019 CRL.M.A. 17030/2020 I.A. 17284/2021 I.A. 26175/2023**

SMT. KRISHNA KAPUR

.....Plaintiff

Through: **Mr. Himanshu Sharma, Advocate
(Through VC)**

versus

SH. TARUN KAPOOR & ORS.

.....Defendants

Through: **Mr. Uday Bedi, Mr. J. Singh
Khurana, Ms. Varisha Sharma, Ms.
Niharika Sharma and Ms. Shivani,
Advocates for D-1 along with
defendant no. 1 in person through VC
Mr. Ikrant Sharma and Ms. Shweta
Sharma, Advocates**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 10.12.2024

1. Mr. Himanshu Sharma, learned counsel appearing on behalf of plaintiff states that he appears on instructions from Mr. Omkar Sharma, Advocate. He states that the plaintiff intends to change her counsel and thus he requests for an adjournment.
2. He states that he has no instructions with respect to the compliance of the directions issued by this Court vide orders dated 28.10.2022, 25.01.2024, 15.04.2024, and 30.08.2024. He states he has instructions to seek an adjournment only and he can't make any further submissions.



3. Learned counsel for defendant no. 1 states that the present suit is a suit for simplicitor injunction and no substantive relief has been prayed for. He states that defendant no. 1 has already filed CS(OS) 205/2020 titled **Tarun Kapoor v. Krishna Kapur & Others** seeking the substantive relief of partition of the estate of Late Sh. Vijay Kapur.

4. He states that the plaintiff has shown absolute disregard for the directions issued by this Court as recorded in the order dated 28.10.2022, 25.01.2024, 15.04.2024 and 30.08.2024.

5. He states that the plaintiff has also violated the interim orders passed by this Court in I.A. No. 17284/2021.

6. He states that the cost imposed vide orders dated 28.10.2022 and 30.08.2024 has also not been paid to defendant no. 1.

7. Mr. Ikrant Sharma, Advocate enters appearance on behalf of defendant no. 3 and states that he has been recently engaged; however, he has no instructions in regard of the same.

8. The conduct of the counsel for the plaintiff in not addressing arguments is impermissible. So long as vakalatnama has not been discharged, the counsel is bound to remain present and duly represent the plaintiff. The conduct of the plaintiff and its counsel is highly irregular.

9. In view of the aforesaid fact, it is apparent that the plaintiff has not complied with the specific directions issued by this Court and has not taken any steps for prosecuting the suit. The substantive rights of the parties in the suit properties are sub-judice in CS(OS) 205/2020.



10. Accordingly, the present suit is dismissed for non-prosecution.
11. Pending applications are dismissed.
12. This Court is aware of the fact that despite the interim stay order dated 11.03.2019 passed in this suit, the plaintiff vide Gift Deed dated 11.11.2019 had transferred the entire first floor in the property bearing A-1/326, Paschim Vihar, New Delhi-110063 in favour of defendant No. 3 in violation of the stay order. The said fact has already been recorded by the predecessor bench of this Court in its order dated 28.10.2022. The relevant portion of the said order reads as under: -

“3. Thus, there was clear direction from this Court to maintain status quo with respect to the title and possession of the suit properties. One of the properties, which is subject matter of the present proceedings, i.e. A-1/326, first floor, Paschim Vihar, New Delhi-110063, which was under ownership of late Sh. Vijay Kapoor and the plaintiff i.e. parents of the parties, was also subject matter of the status quo order as passed by this Court. However, the plaintiff who is living together with her daughter i.e. the defendant No. 3 in the aforesaid premises, executed a Gift Deed in favour of defendant No.3, whereby the plaintiff has donated, assigned, transferred and conveyed to defendant No. 3 half undivided share of the entire first floor in the aforesaid suit property. The Gift Deed dated 11.11.2019 has been placed on record along with the present application.

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6. Perusal of the aforesaid shows that despite the status quo order dated 11.03.2019 passed by this Court, not only plaintiff transferred the suit property in favour of defendant No. 3 but has also given wrong stipulations in the said Gift Deed with respect to the said property being free from any suits, injunctions or litigations. Thus, there is clear violation of the order dated 11.03.2019 passed by this Court and there is no explanation whatsoever on behalf of plaintiff in this regard.



7. Considering the fact that the property has been transferred by the plaintiff in favour of defendant No. 3 who is already a party to the present suit proceedings and who would also have share in the properties that are subject matter of the present suit proceedings along with other parties to the present case, the plaintiff is burdened with a cost of Rs.20,000/- payable within a period of four weeks to defendant No. 1.

8. Considering the fact that there is a registered Gift Deed in favour of defendant No. 3 as executed by the plaintiff, defendant No. 3 is restrained from creating any third party interest in the suit property bearing No. A-1/326, First Floor, Paschim Vihar, New Delhi, 110063.”

13. In view of these facts and in consideration of the fact that the aforesaid property is also the subject matter of CS(OS) 205/2020, this Court is of the opinion that the final share of the parties herein in the aforesaid property and the validity of the Gift Deed dated 11.11.2019 shall be decided/confirmed in accordance with the outcome of CS(OS) 205/2020. The dismissal of the suit will not regularize the illegal act of execution of the said Gift Deed in violation of the interim order.

14. With the aforesaid observations, interim order dated 11.03.2019 stands vacated.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 10, 2024/rhc/MG