



2025:DHC:10948



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

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Judgment Reserved on: 05.12.2025

Judgment pronounced on: 08.12.2025

+ **FAO 183/2023 & CM APPL 37836/2023**

SUDARSHAN RANI

.....Appellant

Through: Mr. Arvind Kumar Gupta, Advocate.

versus

ANKUR SHARMA & ORS.

.....Respondents

Through: Mr. Subhash Kamboj, Advocate.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. The present appeal under Order XLIII Rule 1(r) read with Section 151 of the Civil Procedure Code, 1908 (the CPC) assails the order dated 22.05.2023 passed by the trial court in Civil Suit No. 21/2022, whereby the application filed by plaintiff/appellant under Order XXXIX Rule 1 and 2 CPC was dismissed.

2. In the appeal, the parties herein shall be referred to in the same rank as they are arrayed in the suit.

3. Brief facts necessary to adjudicate this appeal are:-The



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plaintiff instituted the suit asserting that she is a co-sharer in property bearing No. 137/1A, Gali No. 5, Than Singh Nagar, Anand Parbat, Delhi (the suit property), which originally belonged to her father, late Sh. Haveli Ram, who according to her died intestate on 02.02.1983. It is the plaintiff's case that she had inherited half right in the said suit property upon the demise of her parents. It is also her case that, upon the death of her only sister, Kamlesh Sharma, (defendant no.1's mother), on 09.09.2020, the plaintiff continued to retain her undivided share in the property and thus remained entitled to joint possession and enjoyment thereof.

3.1 As per the plaintiff's case, she has been in possession of a room on the ground floor of the property where some of her belongings, particularly a box containing jewellery, clothes and documents were placed. According to the plaintiff, defendant no. 1, began asserting ownership over the entire property on the basis of two disputed Wills; the first one dated 27.03.1981, purportedly executed by the plaintiff's father, late Sh. Haveli Ram, allegedly



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bequeathing the entire property solely to the mother of defendant no. 1 and the second Will dated 08.02.2006, purportedly executed by the latter in favour of defendant no. 1. The plaintiff asserts that both the said Wills are false and fabricated, relying on which defendant no. 1 executed a registered sale deed dated 26.10.2021 transferring the entire suit property to defendant nos. 2 and 3. Subsequently, defendant no. 2 and 3 commenced demolition and attempted to raise fresh construction forcing her to seek an interim injunction to preserve the property pending adjudication of the suit.

3.2 The defendants/respondents, on the other hand, contended that late Haveli Ram had executed a Will dated 27.03.1981, bequeathing the entire property exclusively to defendant no. 1's mother, and that by virtue of the will, the latter became the absolute owner of the entire suit property during her lifetime. It is also their case that upon the death of the mother of defendant no. 1, exclusive title to the suit property devolved upon



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the latter through a registered Will dated 08.02.2006. Defendant nos. 2 and 3 assert that they are *bona fide* purchasers of the suit property for consideration and that possession has been delivered to them and that no right or possession has ever been held by the plaintiff.

4. *Vide* the impugned order, the trial court held in favour of the defendants by dismissing the application for temporary injunction finding that the plaintiff failed to establish possession over any part of the suit property and had failed to demonstrate a *prima facie* case warranting any interference with the rights asserted by the defendants. Consequently, balance of convenience and irreparable injury did not lie in favour of the plaintiff. Aggrieved, the plaintiff has approached this court assailing the impugned order.

5. The learned counsel for the plaintiff submitted that the defendants' entire claim of exclusive ownership is founded upon two disputed Wills, namely, the Will dated 27.03.1981, allegedly



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executed by the plaintiff's father and the Will dated 08.02.2006, allegedly executed by defendant no. 1's mother. The learned counsel would further submit that both the Wills are under serious dispute and their validity is yet to be proved and that until the same is proved, the plaintiff's status as co-sharer cannot be displaced. The learned counsel further submitted that the since defendant no. 1 has already sold the property to defendant nos. 3 and 2, on the basis of the said Wills, unless the *status quo* is maintained, the suit property may undergo irreversible alteration, resulting in multiplicity of litigation.

6. *Per contra*, the learned counsel for the defendants submit that the appellant has sought for injunction solely based on an unsubstantiated allegation that she had kept her belongings inside a room in the property, which does not establish any possession. The learned counsel further submitted that in the absence of any possession or *prima facie* right, no interim order is warranted and the trial court was right in declining the grant of injunction.



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7. Heard both sides and perused the records.

8. On perusal of records, it is apparent that the dispute between the parties mainly revolves around the effect and validity of two Wills dated 27.03.1981 and 08.02.2006. While the plaintiff has categorically disputed both the Wills, the defendants assert exclusive ownership on the basis thereof. The limited issue before this Court is whether the trial court was justified in declining the interim protection to the plaintiff, pending adjudication of the suit. The trial court declined the relief on the ground that the plaintiff failed to establish a *prima facie* case or possession over the property. The fact that the disputed property belonged to the father of the plaintiff is not disputed. The first defendant is admittedly the nephew of the plaintiff. The defendants set up a case of exclusive ownership on the strength of two Wills, which is disputed by the plaintiff. The question as to who is in possession of the property can only be decided based on the evidence that would be led in by the parties during trial. Defendant no.1 appears to have sold the



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property to defendants 2 and 3. It is also the case of the plaintiff that demolition and construction activities are being undertaken in the property.

9. In the circumstances of the case, any further alienations or alterations/constructions in the property during the pendency of the suit would certainly prejudice the plaintiff in the event of her success in the suit. Therefore, to preserve the subject matter of the suit, this court finds it appropriate to direct the parties to maintain *status quo* with respect to the suit property till the rival claims are adjudicated by the trial court.

10. Accordingly, the impugned order dated 22.05.2023 is set aside and the appeal is allowed. It is clarified that nothing contained in this order shall affect the merits of the case.

11. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 05, 2025/RN