



2025:DHC:8727-DB



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

Date of Decision: 25.09.2025

+ **FAO(OS) 115/2023**

**DEEPAK SANT RAM ALIAS DEEPAK GUPTA AND
OTHERS**Appellants

Through: Mr. Aditya Wadhwa,
Mr. Arunav Sarma and
Mr. Abhyankar Panth,
Advocates.

versus

NEETA MITROO & ORS.Respondents

Through: Mr. Rajesh Yadav, Senior
Advocate with Ms. Deeksha L.
Kakar, Mr. Rashneet Singh and
Ms. Sana Parveen, Advocates
for Respondent No. 1.
Mr. P.C. Sen, Senior Advocate
with Mr. Shivanshu Singh and
Ms. Rashi Goswami, Advocates
for Respondent Nos. 3 and 4.

**CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

% **JUDGEMENT (ORAL)**

ANIL KSHETARPAL, J.

1. The present Appeal under Section 10 of the **Delhi High Court Act, 1966** has been preferred against the Judgment dated 06.09.2023 passed by the learned Single Judge of this Court in I.A. No. 4249 of

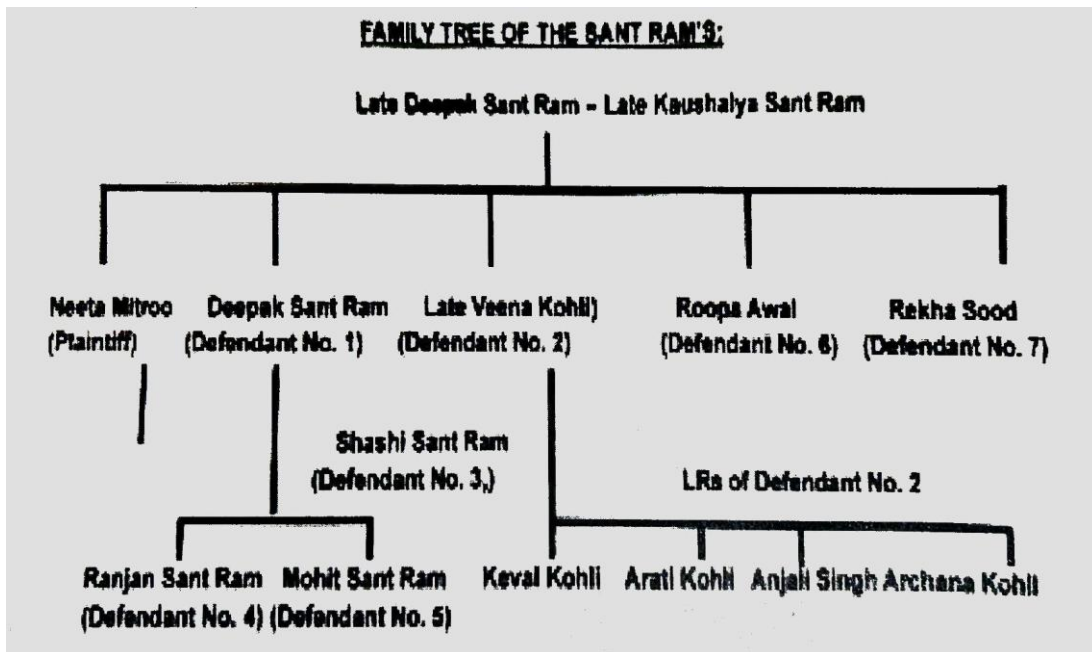


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2016 in CS (OS) 3307 of 2015 titled “*Neeta Mitroo & Ors. v. Deepak Sant Ram @ Deepak Gupta & Ors.*”, whereby the application filed by the Appellant/Defendant Nos. 1, 3, 4 & 5 under Order VII Rule 11 of the Code of Civil Procedure, 1908 [“CPC”] seeking rejection of the plaint was dismissed.

2. The parties herein shall be referred to in the same rank as they are arrayed in the original suit.
3. The genealogy of the family reads as under:-



4. While filing the suit, the Plaintiffs pray for the following reliefs:-

- “(a) Pass a decree for cancellation of Perpetual Sub-Lease dated 19.05.1965 in respect of the plot of land bearing no. C - 78 (Now - H-9), Maharani Bagh, New Delhi - 110014, executed by the Secretary (L.S.G. and P.W.D.) (on behalf of the President of India) and the Maharani Bagh Co-operative House Building Society in favour of Defendant No. 1, Deepak Gupta alias Deepak Sant Ram and declaration that the same is void and invalid;
- (b) Pass a decree for cancellation of the Agreement dated 19.05.1965 in respect of the plot of land bearing no. C - 78 (now H-9), Maharani Bagh, New Delhi - 110014, executed by the



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Maharani Bagh Co-operative House Building Society in favour of Defendant No. 1, Deepak Gupta alias Deepak Sant Ram and declaring the same as void and invalid;

(c) Pass a decree for cancellation of the Conveyance Deed dated 27.05. 2008 in respect of the plot of land bearing no. H-9 (old C-78), Maharani Bagh, New Delhi - 110014, executed by the Delhi Development Authority (on behalf of the President of India) in favour of Defendant No. 1, Deepak Gupta alias Deepak Sant Ram and declaring the same as void and invalid;

(cc) Pass a decree for cancellation of the transfers dated 01.12.1962 and 05.05.2008, for the share certificate no.305/177 issued in the name of Dr.Sant" Ram in respect of the suit land, and set aside the allotment letter dated 30th January, 1965 addressed by Defendant No.8 in favour of Defendant No.1, declaring them as void and invalid;

(d) Pass a decree for partition of the suit property bearing no. H - 9, (Old No. C-78) Maharani Bagh, New Delhi - 110014, dividing in equal proportions of 1/5th share each of the Plaintiff, Defendant No.1, Defendant No.2, Defendant No.6 and Defendant No.7 and putting the said parties in actual possession of their demarcated share to have and hold as they please and further any preliminary decree in respect thereof;

(e) Pass a decree of mandatory and permanent injunction restraining Defendant No.1 and/or Defendant Nos. 3, 4 and 5 in any manner dealing with, disposing of, alienating, encumbering, selling, creating third party interest in the right, title or interest of the Suit Property bearing no. H- 9 (old C-78), Maharani Bagh, New Delhi -110014, or any portion thereof or from inducting any third party therein and from letting out, leasing or giving on license or entering into any other arrangement in respect of or altering the status/condition of the Suit Property as it stands presently;

(f) Pass a decree in favour of the Plaintiff directing Defendant No. 1 to declare, divide and distribute any monetary proceeds that may have already

been received by Defendant No. 1 from the unauthorized sale of any unit(s) constructed upon the suit property bearing no. H - 9 (old C-78), Maharani Bagh, New Delhi - 110014, in equal proportion of 1/5th share each among the Plaintiff, Defendant No.1, Defendant No.2, Defendant No.6 and Defendant No.7;

(g) Pass a decree in favour of the Plaintiff directing Defendant No. 1 to furnish information of any other land, property, asset, that may have been purchased by Defendant No.1, or Defendant Nos.3, 4 or 5, in their individual or combined names from the sale proceeds received by him from the unauthorised sale of any of the units of the suit property to enable the Plaintiff to seek her respective share in any such property; ”



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5. Originally, late Sh. Sant Ram (Common Ancestor) applied for allotment of a plot in the year 1961.
6. Defendants claim that their father transferred the aforesaid rights to allotment in his favour in the year 1962.
7. Late Sh. Sant Ram died on 11.01.1964. A Perpetual lease deed was executed by the Government in favour of Maharani Bagh Cooperative Housing Society on 02.11.1964 whereas the Perpetual Sub-Lease Deed was executed in favour of the Defendant(s) on 19.05.1965.
8. The Suit was filed on 29.10.2015. In paragraph 50 of the plaint, the Plaintiff has asserted as under:-

“50. It is stated by the Plaintiff and submitted that the claim in the Suit is not barred by the laws of limitation. The cause of action first arose in July, 2013, when the Plaintiff and Defendant Nos. 6 and 7 became aware that Defendant No.1 had started construction on the suit property without informing the Plaintiff (or any other sister). The cause of action further arose in February- March, 2014 when the Plaintiff visited the suit property and learnt that pursuant to Defendant No.1 constructing the multi storey flats on the suit property, he had now put the said flats on the market for sale, without informing the other siblings.

Cause of action further arose in June, 2014, when during a phone call with the wife of Defendant No.1 (Defendant No.3), Defendant No. 6 learned that Defendant No.1 had been pursuing new financial and real estate deals in and around Delhi. Cause of action thereafter arose in May - June, 2015, when upon inquiry by the Plaintiff and Defendant Nos. 6 and 7 under Right to Information Act, 2005, the Plaintiff for the first time learned that the suit property purportedly stood transferred in the sole name of Defendant No.1 in the relevant records, with no mention of other legal heirs of Dr. Sant Ram. The cause of action also arose in July, 2015, when the Plaintiff for the first time learned of the purported Conveyance Deed dated 27.05.2008 executed in favour of Defendant No.1 in respect of the suit property. The cause of action continues to arise in as much as Defendant No.1 is attempting to create third party interest in the suit property by selling the flats constructed in the open market. Hence the present suit is being



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filed in time.”

9. Learned counsel for the Defendants contend that the Suit filed by the Plaintiff was filed beyond the period of limitation as the Perpetual Sub-Lease in favour of the Defendant is of the year 1965 whereas the Suit has been filed in the year 2015.

10. It is trite law that rejection of plaint at the threshold can only be ordered when the Court is definite that the Suit is liable to be dismissed in view of a statutory bar.

11. It is not in dispute that originally an application for allotment was filed by late Sh. Sant Ram who unfortunately died in the year 1964. Defendants claim property to the exclusion of other legal heirs on the basis of an unregistered document allegedly executed by late Sh. Sant Ram.

12. It is debatable whether such document could result in valid transfer as it is not registered. However, this Court is not expressing any final opinion.

13. Admittedly, late Sh. Sant Ram died intestate. The Plaintiff/Ms. Neeta Mitroo is a class one heir of late Sh. Sant Ram, and therefore, she has also prayed for partition of the property.

14. In view of the above, this Court is of the considered opinion that it would not be appropriate to reject the plaint at the threshold. Consequently, no interference in the Impugned Order passed by the learned Single Judge is called for.

15. Needless to observe that the observations made by the learned Single Judge or by this Court while disposing the present Appeal shall not be construed as final expression of opinion on the merits of the case.



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16. The present appeal, along with pending application(s), if any, is disposed of in the above terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 25, 2025/nd/kr