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

+ **CS(OS) 590/2024 and I.A. 34759/2024, I.A. 37428/2024**

SONI GUPTA

.....Plaintiff

Through: **Mr. S. S. Panwar, Ms. Nividita Panwar, Mr. Ravi Panwar and Mr. S. D. Baloni, Advs.**

versus

GAURAV GARG & ORS.

.....Defendant

Through: **Mr. K. C. Mittal, Mr. Prateek Goswami, Advs.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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06.02.2025

1. The prayer in the civil suit reads as under:

“(A) pass a decree of recovery in favour of the plaintiff and against the defendants, jointly and severally with respect to ISTRIDHAN of plaintiff, which comes to Rs. 1,14,50,000/- (Rupees one crore fourteen lac fifty thousand only) given in para 7 of plaint and document Mark “A” including the amount of Rs. 6,00,000/- as explained in para 12(D)(iii) of the plaint or the equivalent market value of the ISTRIDHAN, at the time of filing of the suit along with interest @ 18% P.A. pendent lite and future till realization thereof after holding a legal enquiry as per law;

(B) pass a decree for recovery in favour of the plaintiff and against the defendants jointly and severally with regard to damages of Rs. 2,00,00,000/- (Rupees two crore only) suffered by plaintiff on account of illegal, immoral, inhuman, unsocial, uncivilized, unscrupulous, scandalous and_ cruel’ acts, misconducts, unsympathetic attitude, misbehavior, physical and mental torture and assault, humiliation, embarrassment, harassment, pains, sufferings, depression, oppression, domestic violence, emotional and economical abuse, criminal breach of trust, forgery, fraud, defamation committed to the plaintiff by the defendants and violating the



fundamental, legal and matrimonial rights of the plaintiff by the defendants, which has also materially affected, hampered, diminished and blocked the progress and future prospects and professional carrier of the plaintiff, along with interest @ 18% P.A. pendent lite and future till realization;

(C) pass a decree of permanent injunction in favour of plaintiff and against the defendants jointly and severally, thereby restraining the defendants and their agents, workmen, employees, attorneys, functionaries or any other person acting through, for and/or on their behalf from:-

(i) selling, transferring, alienating, disposing of, creating third party interest and parting with possession of shared household properties bearing No. D-12, Ashoka road, Adarsh Nagar, Delhi-33, Property/flat No. D-33, Rana Road, Adarsh Nagar, Delhi-33 and Property bearing No. D-1, Adarsh Nagar, Bhagat Singh Road, Adarsh Nagar Extn., Bhalswa Dairy, Delhi-33;

(ii) selling, transferring, alienating, disposing of, creating third party interest and parting with possession of the entire ISTRIDHANI.e. articles, clothes, gold and diamond jewelry items, furniture and AUDI car registration No. DL3TCSZ791 etc., details of which are given in Document Mark "A", filed by the plaintiff;

(D) cost of the suit be allowed;

(E) pass any such other or further order(s), which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case in the interest of justice, equity and fair play."

2. The facts clearly establish that the plaintiff is the wife of defendant no.1, while defendants no.2 and no.3 are her parents-in-law. Their marriage was solemnized on 22.04.2021. The core issue and claims presented in the plaint manifest that the relief sought directly emanate from matrimonial disputes between the parties.

3. The Court takes note of the decision passed by this Court in **CS(OS) 411/2010** titled **Amina Bharatram v. Sumant Bharatram and Ors.** and **CS(OS) 601/2022** titled **Geeta Anand v. Tanya Arjun & Anr**, wherein it was held that this Court does not possess the jurisdiction to entertain, try, and decide cases and causes referred to in Sections 7 and 8 of the Family Courts Act, 1984 (hereinafter 'Family Court Act')



4. The provisions of Section 7 of the Family Courts Act, *inter alia*, provide that, subject to other provisions of the Act, the Family Court shall exercise all jurisdiction exercisable by any District Court or any subordinate Civil Court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation.

5. Clause 'c' of the explanation of Section 7 speaks that a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them. Clause 'd', however, unequivocally indicates that the suit or proceedings for an order or injunction in circumstance arising out of a marital relationship, are to be tried by the Family Court.

6. In the case of ***Avneet Kaur v. Sadhu Singh***¹, this Court examined the jurisdiction of the Family Court under Clause (d) of the explanation to Section 7(1) of the Family Courts Act. The Court emphasized that the Family Court is established to handle disputes arising within the framework of a marital relationship. Therefore, while interpreting the jurisdiction clause, the Court should strive to include disputes within its jurisdiction rather than exclude them, as long as such inclusion aligns with statutory provisions. However, the Court also clarified that if a dispute is not statutorily amenable under Section 7(1), it cannot be artificially brought under the Family Court's jurisdiction through an overly broad interpretation of the provision.

7. In determining whether Clause (d) applies, the Court laid down a crucial test which was whether the circumstances in which the order or injunction is sought 'arise out' of a marital relationship. The test is not



whether the cause of action forming the basis of the prayer for injunction arises out of a marital relationship or whether the marital relationship is the reason for the grievance ventilated by the plaintiff, instead, the focus is on the circumstances in which the injunction is sought. Once the Court identifies these circumstances, if they arise out of a marital relationship, Clause (d) of the explanation to Section 7(1) of the Family Courts Act would *ipso facto* be attracted.

8. Moreover, the Supreme Court in ***K.A. Abdul Jaleel v. T.A. Shahid***², held:

“11. ...The wording “disputes relating to marriage and family affairs and for matters connected therewith” in the view of this Court must be given a broad construction. The Statement of objects and reasons, as referred to hereinbefore, would clearly go to show that the jurisdiction of the Family Court extends, inter alia, in relation to properties of spouses or of either of them which would clearly mean the properties claimed by the parties thereto as a spouse of the other; irrespective of the claim whether the property is claimed during the subsistence of a marriage or otherwise.

* * *

14. It is now a well-settled principle of law that the jurisdiction of a court created specially for resolution of disputes of certain kinds should be construed liberally. The restricted meaning if ascribed to Explanation (c) appended to Section 7 of the Act, in our opinion, would frustrate the object where for the Family Courts were set up.”

9. In view of the foregoing, it is evident that the relief sought in the instant suit arises directly from the plaintiff’s marital relationship with defendant No. 1. Accordingly, the relief prayed for falls within the ambit of Section 7 of the Family Court Act.

10. It is evident that the reliefs sought by the plaintiff, including the recovery of *Istridhan* and the injunction, stem directly from the family

¹ 2022 SCC OnLine Del 4815

² (2003) 4 SCC 166



dispute and arise out of the plaintiff's marital relationship with defendant No. 1. The genesis of the suit lies in the matrimonial discord between the parties, particularly the strained relationship between the plaintiff and defendant No. 1. Given that the claims for recovery, damages, and injunction are intricately linked to the marital relationship and its fallout, they fall within the ambit of Section 7 of the Family Courts Act, which governs disputes related to marital and family affairs and matters connected thereto.

11. Consequently, the plaintiff is entitled to seek not only the recovery of *Istridhan* but also damages, etc for the alleged mental and physical suffering, as well as an injunction to protect her legal rights and interests. Consequently, the suit is liable to be returned for presentation before the Family Court under Order VII Rule 10 of the CPC.

12. At this stage, Mr. S. S. Panwar, learned counsel for the plaintiff, submits that if the suit is to be presented before the Family Court, a fixed Court fee would be applicable. He further contends that the plaintiff has already paid the *ad valorem* Court fee in the instant suit.

13. Given that the suit is being returned for presentation before the appropriate Court, necessary directions must be issued regarding the return of the Court fee.

14. Accordingly, the Registry is directed to ensure the expeditious return of the Court fee paid by the plaintiff.

15. The instant matter stands disposed of.

16. Ordered accordingly.

PURUSHAINDR KUMAR KAURAV, J



FEBRUARY 6, 2025

aks/mjo/sph

Click here to check corrigendum, if any