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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(OS) 17/2025, CM APPLs. 17294/2025, 17296/2025 & 17297/2025**
JASBIR KAUR & ANR.Appellants

Through: Mr. Praveen Swarup, Adv.

versus

AMITA PAL KAUR & ORS.Respondents

Through: Mr. Debarshi Bhadra, Adv. for R-1.
(M:9899091969)
Mr. Preet Pal Singh, Ms. Tanupreet Kaur
& Ms. Unnati Sinha, Adv. for R-2 to R-5.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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21.04.2025

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellants- Jasbir Kaur and Sukhamrit Singh challenging the decree dated 22nd August, 2024 (*hereinafter, 'the impugned decree'*) passed by the Id. Single Judge in **CS (OS) 668/2019** titled ***Amita Pal Kaur v. Jasbir Kaur & Ors.***
3. The dispute herein is one between the members of a family, in respect of the property no. L-8 Lajpat Nagar-III, New Delhi-110024.
4. The Id. Single Judge, after hearing the parties who were in fact present before the Court, has passed a preliminary decree of partition, being the impugned decree, under Order XII Rule 6 of the Code of Civil Procedure, 1908, declaring the following shares to the respective parties:



- Respondent No.1/Plaintiff- Amita Pal: 25% of the total share;
- Appellant No. 1 & 2/Defendant No. 1 and 2: 25% of the total share;
- Respondent No. 2/Defendant No.3: 50% of the total share.

5. The manner in which the impugned decree has been drawn would show that there is no major dispute between the parties in respect to the shares that they own.

6. Ld. counsel for the Appellants submits that the Appellants dispute the share which has been allocated in their favor. It is further submitted by the Ld. Counsel for the Appellants that the impugned decree clearly shows that Ld. Single Judge took a view without allowing evidence to be led.

7. Another argument on behalf of the Appellant- Jasbir Kaur is that there was an oral family settlement and, therefore, the other parties, except the Appellant, are not entitled to any share. Since there is no proof on record of any such settlement having been earlier entered into between the parties and any steps taken pursuant to any oral family settlement, the impugned decree, in the opinion of this Court, does not deserve to be interfered with.

8. In fact, the Ld. Single Judge has considered the stand of each party in terms of the admissions made and the documents which have been filed. A perusal of the trial court record reveals that the same is based on the admissions of the parties. The Respondent No.1/Plaintiff - Amita Pal Kaur, in the Complaint filed before the Ld. Single Judge had made the following submissions:

“11. It is submitted that after the deaths of the Late Sh. Gurbaksh Singh and Late Smt. Gurbachan Kaur, their respective heirs inherited the shares of their parents.



Thus, Late Sh. Gurdeep Singh and the Plaintiff each inherited 25% respectively in the suit property while the heirs of the Late Gurbaksh Singh i.e. Defendant no. 3 to 6, inherited 50% share in the suit property. Further after the death of Late Sh Gurdeep Singh, his wife and son, i.e. Defendant no. 1 and 2 respectively, jointly inherited his 25% share in the suit property. Therefore, the current share of each party is provided hereinbelow;

NAME OF SHARE-HOLDER	SHARE IN SUIT PROPERTY
1. Smt. Amita Pal Kaur (Plaintiff)	25%
2. Heirs of Late Gurdeep Singh i.e. Smt. Jasbir Kaur and Sh. Sukhamrit Singh (Defendants no. 1 & 2)	25%
3. Heirs of Late Gurbaksh Singh (Defendants no. 3 to 6)	50%

12. In or around January 2018, the Plaintiff was also approached by the Defendant no. 1 and 3 who claimed to be in talks with a builder and advised jointly entering into a collaboration agreement, whereby the builder would redevelop the suit property by demolishing the existing structure and building a new structure having basement, stilt and four floors. One of the floors would be allocated to the builder as consideration and who would be entitled to recover his cost of re-development by the said apartment. **Defendant no. 3 further affirmed that his sisters, i.e. Defendant no. 4 to 6 had already agreed to relinquish their rights to the property in his favour and as such he would be entitled to 50% share after taking out the builder's share. The remaining floors/ property would be divided between**



the parties in accordance to their shares.”

9. Further, the Written Statement filed on behalf of Defendant No. 3-6 before the Id. Single Judge contain the following submissions:

“2.That Late Sh. Gurbax Singh during his lifetime has executed his WILL dated 21st November 2011 duly registered on 22nd November 2011 vide Registration No. 6236 in Book No. 3 Vol. No. 1954 on Pages 87 to 88. It is submitted that as per the said Will the entire 50% undivided share of Late Sh. Gurbax Singh in L - 8, Lajpat Nagar - III, New Delhi has devolved solely and absolutely upon defendant no. 3 herein. It is submitted that defendant no. 4 to 6 have also affirm and acknowledge the said Will and have further given their No Objection in this regard. It is submitted that the defendant no. 4 to 6 are liable to be deleted from the array of the parties as the said defendants are neither necessary nor proper party for adjudication of the present case.

10. Additionally, even today, Id. Counsel for the Appellants submits that there is mediation going on between the parties and the said mediation is being presided over by the Id. Single Judge.

11. Id. Counsel for Appellants further submits that there is another property in Gurgaon and the dispute in respect to the same is also to be negotiated between the parties. It is submitted by Mr. Preet Pal Singh, Id. counsel for Respondents that insofar as the Gurgaon property is concerned, the dispute is only between the Appellants and the Respondent No.1 and has nothing to do with the other



parties. In rebuttal to the same, Id. Counsel for the Respondent No.1 submits that there is no outstanding dispute in respect of the Gurgaon property.

12. Be that as it may, insofar as the mediation is concerned, since the dispute is between family members, they are free to mediate as they deem appropriate in respect of their comprehensive settlement.

13. Further, insofar as the impugned decree under challenge is concerned, the said decree does not warrant interference of this Court, as a perusal of the record clearly shows that the same is based on the admissions of the parties. Relevant portions of the impugned decree is extracted herein below :

“4. It is further stated that Mr.Gurbax Singh, during his lifetime, had executed a Will dated 21.11.2011, duly registered vide Registration No. 6236 in Book No.3 Vol. No. 1954 on Pages 87 to 88, bequeathing his undivided share in the suit property upon the defendant no.3 herein. It is stated that the defendant nos.4 to 6 affirmed and acknowledged the said Will, and have given their no objections, which are annexed along with the written statement filed in the present suit.

5. On the last date of hearing, as the defendant no. 1 was raising a dispute on the assertion of the defendant no.3 that the defendant nos.4 to 6 have given their no objection to the Will of Late Sh.Gurbax Singh and for the transfer of the share of Late Sh.Gurbax Singh in favour of the defendant no.3, this Court felt it appropriate to direct the parties to appear before this Court in person, either physically or virtually.

7. The defendant nos.4 to 6 affirm that they have no objection to the entire share of Late Sh.Gurbax Singh



being transferred to the defendant no.3 in terms of the Will dated 21.11.2011 of Late Sh. Gurbax Singh.

9. The learned counsel for the plaintiff submits that, in fact, in the Compromise Decree that was passed by the learned Civil Judge (Jr.Divn.), Gurugram, on 30.01.2018, in Civil Suit No. 400/2017, titled Smt.Jasbir Kaur v. General Public & Ors., it was recorded that Smt.Gurbachan Kaur died intestate and her share has devolved upon the plaintiff and Late Sh.Gurdeep Singh in equal proportions. It was further recorded that on the unfortunate death of Sh.Gurdeep Singh, it is the defendant nos. 1 and 2 herein who have inherited his 1/2 share in the estate of Smt. Gurbachan Kaur. He submits that there is no mention of any Will or any other Family Settlement in the said Compromise Deed.

10. From the pleadings and the assertions of the parties, it is quite apparent that the defendant nos.1 and 2 are merely asserting without proof of any Will having been left behind by Late Smt.Gurbachan Kaur or Late Sh.Gurdeep Singh, or any proof of a Family Settlement being executed between them or between the plaintiff and defendant no. 1 and 2. In any case, the plaintiff is not claiming a right in the property left behind by Late Sh.Gurdeep Singh.

11. The defendant nos. 1 and 2 also assert that there was some Family Settlement arrived at between the parties, however, the terms thereof or a copy thereof is also not present. Therefore, the claim of the defendant nos. 1 and 2 does not appear to be worthy of acceptance. The fact remains that the property was originally owned by Late Smt.Gurbachan Kaur and Late Sh.Gurbax Singh in equal proportions, and on their death, it devolved



upon their legal heirs. As Mr.Gurdeep Singh, one of the legal heirs of Late Smt.Gurbachan Kaur has unfortunately passed away, his share has now devolved upon the defendant nos.1 and 2.

12. Keeping in view the above, I find that the present suit deserves to be decreed based on the admissions of the parties and documents filed.”

14. The appeal, therefore, fails and is accordingly dismissed.

15. Let the mediation and amicable resolution of disputes continue before the Id. Single Judge.

16. The appeal is disposed of. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

APRIL 21, 2025

dj/ss