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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of Decision: 10<sup>th</sup> October, 2025*

+ CS(OS) 97/2023 & I.A. 13707/2023

KRISHAN KUMAR VATS .....Plaintiff

Through: Mr. K. Venkatraman, Mr. Awnish Kumar, Mr. Naveen Gupta and Ms. Sandhya Gupta, Advocates with Plaintiff in person

versus

SHOBHA RAM VATS & ORS. ....Defendants

Through: Mr. Ankit Singh, Ms. Nidhi Dhull and Mr. Danish Ali, Advocates for D-1 and D-3, with D-1 and D-3 in person

Mr. Rajiv Ranjan, Advocate for D-2, 4, 5 & 6 with Defendants in person.

Ms. Sheela Devi in person

**CORAM:**  
**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

% **J U D G M E N T**

**MANMEET PRITAM SINGH ARORA, J:**

**I.A. 13707/2023**

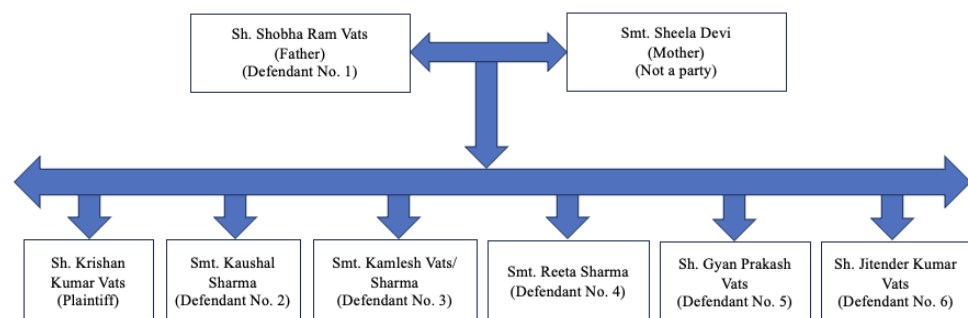
1. This is an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, ['CPC'] filed by Defendant Nos. 1 and 3 seeking rejection of the plaint.



2. The present suit has been filed by the Plaintiff seeking partition of the property bearing no. **242-C, Hari Nagar Ashram, New Delhi – 110014** [‘suit property’] equally among all the parties to this suit. The suit property comprises of ground floor, first floor, second floor, and third floor on a plot admeasuring **173 sq. yards**. The Plaintiff is also seeking a declaration that the registered Gift Deed dated 13.07.2021 *qua* the entire ground floor and third floor of the suit property and Will dated 28.06.2021 *qua* the entire first floor and second floor of the suit property, both executed by Defendant No. 1 in favour of Defendant No. 3 as null, void and inoperative.

3. The Plaintiff and Defendant Nos. 2 to 6 are siblings and children of Defendant No. 1. The Plaintiff along with Defendant Nos. 1, 3, 5, and 6 are in occupation and possession of the suit property. Defendant Nos. 2 and 4 are residing at their respective matrimonial home.

4. The family tree of the parties to the suit is as under:



### **CASE SET UP BY THE DEFENDANT NOS. 1 AND 3**

5. Mr. Ankit Singh, learned counsel for Defendant Nos. 1 and 3, has set up the case of Defendant Nos. 1 and 3, as under: -

5.1. The suit property admeasuring 173 sq. yds. forms part of a larger property admeasuring 530 sq. yds. [‘the Plot’]. The said Plot was purchased



by Sh. Horam and his brother, Sh. Pirthi Singh as co-equal owners and is therefore, their self-acquired property.

5.2. As per Section 8 of Hindu Succession Act, 1956 ['Act of 1956'], Sh. Horam's  $\frac{1}{2}$  share in the Plot devolved upon his three [3] sons and one [1] daughter. Defendant No. 1 is the son of Sh. Horam. The daughter of Sh. Horam relinquished her share in favour of her three [3] brothers.

And, by virtue of a registered Will dated 12.02.1987, Sh. Pirthi Singh's  $\frac{1}{2}$  share in the Plot devolved upon his three [3] nephews [i.e., Defendant No. 1 along with his two [2] brothers].

In this manner, Defendant No. 1 and his two (2) brothers became the absolute owners of  $\frac{1}{3}^{\text{rd}}$  share each in the Plot.

5.3. The Plot was, thereafter, partitioned between Defendant No. 1 and his two (2) brothers by a Family Settlement dated 21.08.1998 and Partition Deed dated 05.12.2003. The Plot no. 242-C admeasuring 173 sq. yds. fell to the share of Defendant No. 1 and it is subject matter of the suit.

5.4. The registered Will dated 12.02.1987, Family Settlement dated 21.08.1998 and Partition Deed dated 05.12.2003 are admitted by the Plaintiff and these documents belie the contention of the Plaintiff in the plaint that the suit property is a Joint Hindu Family property.

5.5. The suit property was a self-acquired property of Late Sh. Horam and his share in the suit property devolved upon his legal heirs by way of succession as per Section 8 of Act of 1956. Accordingly, Defendant No. 1 along with his two [2] brothers inherited the share of Late Sh. Horam's property, as their self-acquired property, with absolute ownership.

5.6. The other half portion of the Plot owned by Late Sh. Pirthi Singh devolved upon Defendant No. 1 and his brothers by registered Will dated



12.02.1987 as per Indian Succession Act, 1925 [‘Act of 1925’] and the said property cannot be termed as Joint Family property or HUF or coparcenary property. The inheritance of the said property is in the nature of a self-acquired property in the hands of Defendant No. 1.

5.7. Thus, the suit property is exclusively owned by Defendant No. 1 and therefore, the children of Defendant No. 1 are not entitled to any share in the suit property by virtue of birth.

5.8. Defendant No. 1 affirms the execution of the registered Gift Deed dated 13.07.2021 and the registered Will dated 28.06.2021; therefore, the Plaintiff has no cause of action for challenging the said documents.

5.9. In view of the aforesaid, it is evident that there is no cause of action; basis on which the Plaintiff can maintain the present suit. Accordingly, this Court be pleased to reject the plaint for want of cause of action.

**CASE SET UP BY THE PLAINTIFF**

6. In response, Mr. K Venkatraman, learned counsel for the Plaintiff, has set up the case of the Plaintiff, as under: -

6.1. The property bearing no. 242, Ashram, New Delhi was jointly purchased by Sh. Horem [father of Defendant No. 1] and his brother, Sh. Prithi in two [2] equal shares. Since, Sh. Horem died intestate; his half [1/2] share in the said property equally devolved upon his three [3] sons – Sh. Shobha Ram Vats [i.e., Defendant No. 1 herein], Om Dutt Vats and Ashok Kumar Vats and his daughter – Smt. Jagwati [who later on relinquished her share in the said property in favour of her three [3] brothers].

6.2. Later on, Sh. Pirthi Singh by way of a registered Will dated 12.02.1987, bequeathed his half [1/2] share in the aforesaid property in favour of the three sons of Sh. Horem. Thus, in this manner, Defendant No. 1 and his two [2]



brothers became joint owners of the property bearing no. 242, Hari Nagar Ashram, New Delhi - 110014. Thereafter, Defendant No. 1 and his two [2] brothers, partitioned the said property vide registered Partition Deed dated 05.12.2003.

6.3. After partition, the properties were self-numbered as 242-A, 242-B and 242-C [i.e., the suit property]; although in Municipal Records, the property is still entered and recorded only as 242 situated at Hari Nagar Ashram, New Delhi- 110014. In this manner, the suit property, came in the joint ownership of the parties to this suit being coparceners. Thus, the suit property was treated a Joint Hindu Family property.

6.4. During the years 1999 to 2009, the Plaintiff, Defendant No. 5, Defendant No. 6 along with Defendant No. 1 constructed a multi-storey building on the plot after demolishing the old ground floor structure. The said parties have also paid the property taxes and remained in exclusive possession of their respective portions in the constructed property; the Plaintiff and the Defendant No. 5 reside on the second floor; the Defendant No. 6 resides on the first floor; the Defendant Nos. 5 and 6 are running small grocery and stationary shops on the ground floor.

6.5. It is an admitted case of Defendant Nos. 2, 4, 5 and 6 that the suit property was developed as Joint Family property, creating enforceable legal rights in favour of the Plaintiff and the Defendants.

6.6. Defendant No. 3, who is an advocate, had returned to the suit property in 2005 due to marital issues and has been residing there permanently. Defendant No. 3 has obtained the impugned Will dated 28.06.2021 and the impugned Gift Deed dated 13.07.2021 by exercising undue influence over Defendant No. 1.



6.7. The Plaintiff and his brothers have jointly contributed to family functions including the marriages of Defendant No. 3 in 1992 and Defendant No. 4 in 2003, which further affirms the joint nature of the family.

6.8. It is contended that Smt. Sheela Devi [wife of Defendant No. 1] and mother of the Plaintiff and Defendant Nos. 2 to 6, has resided in the suit property for decades but is now confined to a single room on the ground floor of the suit property. It is contended that Smt. Sheela Devi is a necessary party, and her rights to residence and maintenance under statutory law have been violated due to the impugned transfer of the suit property in favour of Defendant No. 3.

Smt. Sheela Devi has also filed a Complaint Case No. 1332/2024 under the Protection of Women from Domestic Violence Act, 2005, which is pending before learned Mahila Court, Saket, New Delhi.

6.9. The captioned suit challenges the unilateral execution of a Gift Deed and Will by Defendant No. 1 in favour of Defendant No.3, which has resulted in grave injustice to the Plaintiff and other family members. There are substantial and triable issues in the present suit, which require a full-fledged trial and the same cannot be decided at the stage of adjudication of the application under Order VII Rule 11 of CPC.

6.10. In view of the aforesaid, this Court be pleased to dismiss the present application.

**CASE SET UP BY THE DEFENDANT NOS. 2, 4, 5, AND 6**

7. Mr. Rajiv Ranjan learned counsel for Defendant Nos. 2, 4, 5 and 6 submitted that Defendant Nos. 2, 4, 5 and 6 are supporting the case set-up by the Plaintiff.



### **FINDINGS AND ANALYSIS**

8. This Court has heard the learned counsels for the parties and perused the record.

9. This Court had directed the personal presence of Sh. Shobha Ram Vats-Defendant No. 1 and in compliance thereof, Defendant No. 1 appeared before this Court on 23.07.2025 and addressed submissions. He confirmed due execution of the registered Gift Deed dated 13.07.2021 and the registered Will dated 28.06.2021 *qua* the suit property in favour of his daughter i.e., Defendant No. 3 herein, without any undue influence.

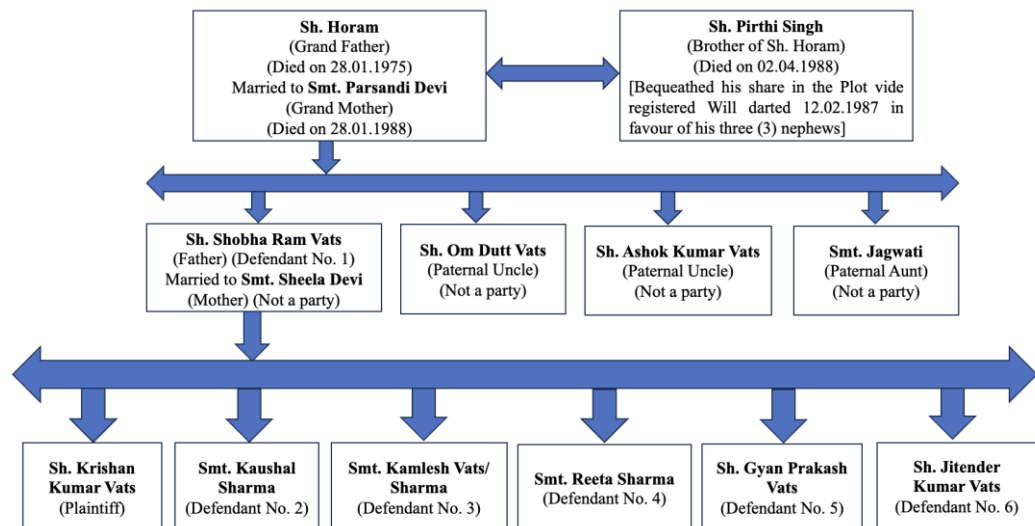
He submitted that his relationship with the Plaintiff and his other children has broken down leading to his physical and mental harassment at their hands. He submitted that he accepts full responsibility for maintaining his wife Smt. Sheela Devi and acknowledges her absolute right of residence in the suit property. He communicated his stand to the Court with clarity and stated that he was a teacher by profession and the decisions on succession plan taken by him are conscious and deliberate.

10. In this background, this Court now proceeds to examine the averments made in the plaint; the Plaintiff's affidavit dated 13.11.2024; and the documents filed by the Plaintiff along with the plaint and the said affidavit, to determine whether the plaint discloses a cause of action.

11. Admittedly, the suit property is constructed on a plot carved out of a larger property admeasuring about 530 sq. yards of property bearing municipal no. 242, Hari Nagar Ashram, New Delhi ['the Plot']. The said Plot was purchased by Late Sh. Horam and his brother, Late Sh. Pirthi Singh in the year 1951.



Late Sh. Horam was the father of Defendant No. 1 and late Sh. Pirthi Singh was the paternal uncle of Defendant No. 1. The family tree for understating the relationship between Sh. Horam and the parties to the suit is as under:



11.1. Since, Sh. Horam died intestate on 28.01.1975; his half [ $\frac{1}{2}$ ] share in the Plot was inherited by his four [4] children as per Section 8 of the Act of 1956. Sh. Horam had three [3] sons and one [1] daughter. The daughter executed a registered relinquishment deed dated 10.06.1998 in favour of her three [3] brothers and in this manner, Defendant No. 1 along with his two [2] brothers became the absolute owners of  $\frac{1}{2}$  share in the Plot.

These facts are admitted by the Plaintiff and the parties to the suit, and the relevant documents regarding the same have also been filed with the plaint.

11.2. At this stage, it would be relevant to bear in mind that the Supreme Court in **Commissioner of Wealth Tax Kanpur and Others v. Chander**



**Sen and Others<sup>1</sup> and Yudhishter v. Ashok Kumar<sup>2</sup>**, has categorically held that a property which devolves upon a natural legal heir under Section 8 of Act of 1956 is the individual/separate property of the said legal heir and does not constitute as a HUF property. The Supreme Court held that the property inherited by a son under Section 8 of the Act of 1956 is not held by him in the capacity of the Karta of a HUF, but in his individual capacity.

This position of law was enunciated by the Division Bench of this Court in **Neeraj Bhatia v. Ravindra Kumar Bhatia and Others<sup>3</sup>**, wherein after taking note of the aforesaid judgments of the Supreme Court, it was clarified that grandson [i.e., Plaintiff herein] and great grandson do not acquire any right by birth in the property inherited by the son [i.e., Defendant No. 1 herein] from his father [i.e., Sh. Horam in the present case]. The relevant paragraph of the judgment of the Division Bench of this Court reads as under: -

“33.5. However, post the enactment of Section 8 of the Act of 1956 (i.e., w.e.f. 17th June 1956), the aforesaid position of law changed as regards creation of coparcenary by inheritance of property. After 1956, the self-acquired property of the father inherited by a son/sons does not result in formation of a coparcenary and the property inherited by the son/sons retains the character of a separate property in the hands of the son/sons; and consequentially, the grandson(s) and great grandson(s) do not acquire any right by birth in the inherited property (Re. C.W.T v. Chander Sen<sup>14</sup> and Yudhishter v. Ashok Kumar<sup>15</sup>). **Thus, post 1956, the self-acquired property of father inherited by a son is his separate property and does not acquire the character of coparcenary.**”

(Emphasis Supplied)

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<sup>1</sup> (1986) 3 SCC 567 [paragraphs 18, 19, 20, 22, 24, and 25]

<sup>2</sup> (1987) 1 SCC 204 [paragraph 10]

<sup>3</sup> 2024:DHC:5341-DB [paragraph 33.5]



In view of the law settled by the aforesaid judgments, it is clear that the suit property inherited by Defendant No. 1 from his father, Sh. Horem under Section 8 of the Act of 1956 is his individual/separate property and not HUF property.

11.3. Sh. Pirthi Singh [the paternal uncle of Defendant No. 1] who was the owner of the other  $\frac{1}{2}$  share in the Plot was unmarried. Sh. Pirthi Singh executed a registered Will dated 12.02.1987 bequeathing his  $\frac{1}{2}$  share in the Plot in favour of his nephews [i.e., Defendant No. 1 and his two (2) brothers] in equal portions. Sh. Pirthi Singh passed away on 02.04.1988 and his  $\frac{1}{2}$  share devolved upon his nephews as per the registered Will dated 12.02.1987. These facts are admitted by the Plaintiff and the registered Will dated 12.02.1987 has also been produced by the Plaintiff along with the plaint. In law, the share inherited by Defendant No. 1 through Sh. Pirthi Singh is also his individual/separate property.

In this regard it would be relevant to refer to the judgment of the Supreme Court in **Vineeta Sharma v. Rakesh Sharma and Others**<sup>4</sup>. In the said judgment the Court has authoritatively dealt with the law pertaining to creation of coparcenary and Joint Hindu Family. In its deliberation, the Court categorically held that a property inherited by a Hindu from a person other than his father, grandfather or great-grandfather cannot be treated as forming a part of coparcenary. The relevant paragraph of the said judgment reads as under: -

“24. Coparcenary property is the one which is inherited by a Hindu from his father, grandfather, or great-grandfather. Property inherited from

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<sup>4</sup> (2020) 9 SCC 1



others is held in his rights and cannot be treated as forming part of the coparcenary. The property in coparcenary is held as joint owners.”

[Emphasis Supplied]

Therefore, the share in the suit property inherited by Defendant No. 1 from his uncle, Sh. Pirthi Singh as per the registered Will dated 12.02.1987 under the Act of 1925 is his individual/separate property and not HUF or coparcenary property.

11.4. In the aforementioned facts, after the death of Sh. Horam and Sh. Pirthi Singh (the recorded owners), Defendant No. 1 along with his two [2] brothers became joint owners of the aforesaid Plot; each owning 1/3<sup>rd</sup> share in the Plot.

Subsequently, by way of Settlement Deed dated 21.08.1988 and a registered Partition Deed dated 05.12.2003, the said Plot was physically partitioned between Defendant No. 1 and his two brothers in three [3] equal shares. The municipal number of the Plot was number 242; however, after partition, the parties assigned private numbers [being 242-A, 242-B and 242-C] to the three [3] equal portions of the Plot.

Plot no. 242-C admeasuring 173 sq. yds. fell to the share of Defendant No. 1 herein and it is this Plot, which is the subject matter of the present suit.

11.5. The Settlement Deed dated 21.08.1988 and the registered Partition Deed dated 05.12.2003, have been filed along with the plaint and same have also been admitted by the Plaintiff.

The recitals of these documents categorically record that Defendant No. 1 along with his two [2] brothers are the ‘absolute’ owners of the Plot to the extent of 1/3<sup>rd</sup> share each. Illustratively, recital of the registered Partition Deed dated 05.12.2003 is referred to hereunder:



“AND WHEREAS in the manner aforementioned the said S/Shri Shobha Ram Vats, Om Dutt Vats and Ashok Kumar Vats - **the parties hereto - became the owners of the said free-hold property bearing MCD No. 242, with land measuring about 530 Sq.Yds** underneath, comprised in Khasra Nos. 1095/49/44 and 1097/50/23 of Village Kilokari, situated at Hari Nagar Ashram, New Delhi-110014, **in three equal shares.**”

(Emphasis Supplied)

11.6. Thus, both in fact and law, the 1/3<sup>rd</sup> share inherited by Defendant No. 1 from Sh. Horem and Sh. Pirthi Singh in the Plot is his individual/separate property and not a Joint Hindu Family property as alleged in the plaint.

12. Next, the Plaintiff has averred that after Defendant No. 1 received his 1/3<sup>rd</sup> share in the suit property it was *treated* as Joint Hindu Family property. It is averred that between 1999 to 2009, the Plaintiff, Defendant Nos. 5 and 6 along with Defendant No. 1 after demolishing the old ground floor structure, constructed a multistoried building on Plot no. 242-C. It is averred that the Plaintiff paid the property taxes and the said parties to the suit remained in exclusive possession of their respective portions.

12.1. It is stated that the Plaintiff along with Defendant No. 5 and their respective families, are residing on the second floor of the suit property. Defendant No. 6 along with his family are residing on the first floor of the suit property. Defendant Nos. 5 and 6 are running shops on the ground floor of the suit property.

12.2. It is contended that these facts of joint use and occupation show that the suit property was developed as a Joint Hindu Family property creating legal ownership rights in favour of the Plaintiff, Defendant No. 5 and Defendant No. 6.



12.3. On basis of these averments, the Plaintiff has claimed 1/7<sup>th</sup> share in the suit property claiming it to be a Joint Hindu Family property.

13. Before proceeding to consider the tenability of a legal claim of ownership of the Plaintiff, Defendant No. 5 and Defendant No. 6 in the suit property on basis of these averments it would be relevant to refer to Plaintiff's affidavit dated 13.11.2024. The said affidavit has been filed by the Plaintiff in compliance of the directions issued by the Court vide order dated 25.10.2024.

The Plaintiff has been employed with National Textiles Corporation ['NTC'] since 1992 and as per the applicable service rules, the Plaintiff is obliged to file a declaration/Form No. 1 with its employer-NTC with respect to the immovable assets held by the Plaintiff.

The Plaintiff along with the affidavit dated 13.11.2024 has produced before this Court, the declaration of the immovable assets ['declaration' of 'Form No. 1'] filed by him between 2017 to 2024 with his employer-NTC. The Plaintiff admits in the affidavit that he has not made any declaration to his employer-NTC, that he has 1/7<sup>th</sup> share in the suit property. At paragraph 7 of the said affidavit, it is stated that such a declaration was not made as the suit property has not been partitioned and there is no declaration of ownership in his favour.

14. This Court has perused the said declaration of assets filed by the Plaintiff. In the said declaration, the Plaintiff has categorically declared NIL ownership of assets. Pertinently, Note: 1 and Note: 6 of the Form No. 1 enable the employee to declare the extent of share held by the employee in a property and also the mode of acquisition i.e., inheritance or otherwise.



In the considered opinion of this Court, if the Plaintiff truly believed that the suit property was a Joint Hindu Family property on basis of which he is entitled to 1/7<sup>th</sup> share in the suit property; the Plaintiff was obliged under the service rules to have made the said declaration to its employer in Form No. 1. The non-declaration of the alleged 1/7<sup>th</sup> share leads this Court to hold that the assertion of 1/7<sup>th</sup> share propounded in the plaint is a mere legal ploy to overcome the Gift Deed and the Will executed by Defendant No. 1 and shows that the Plaintiff knew that the suit property is the individual/separate property of Defendant No. 1.

15. In the preceding paragraphs, this Court has already held that the suit property inherited by Defendant No. 1 from his father, Sh. Horam and parental uncle, Sh. Pirthi Singh is Defendant No. 1's individual/separate property.

16. This Court however now considers whether in law the character of the ownership of the suit property in the hands of Defendant No. 1 can change from individual/separate property into a Joint Hindu Family property on the facts as alleged in the plaint. The averments in the plaint alleging joint ownership character of the suit property between the parties to the suit is as under: -

“9. That **after partition of the property among the defendant No. 1 and his two brothers**, the properties were self numbered as 242-A, 242-B and 242-C although in Municipal Records, the property is still entered and recorded only as 242 situated at Hari Nagar Ashram, New Delhi- 110 014, and the property bearing number 242-C, measuring 173 Sq. Yards approx., i.e. the suit property, situated at Hari Nagar Ashram, New Delhi - 110 014 **came in the joint ownership of the parties to this suit being coparceners**. The plaintiff, the defendant No. 1, 5 and 6 contributed towards raising of



the construction upto the present stage after demolition of old ground floor and construction up to ground and first floor in the year 1999 subsequently second and third floor in the year 2009 in its present form. The plaintiff has paid municipal taxes for the year 2010-11 to 2018-19 for house No. 242-C, Hari Nagar Ashram, New Delhi-110 014 from his own account. However, after enquiring from the Municipal Office, it has come to the knowledge of the plaintiff that the House Tax deposited by him has been kept in abeyance as the suit property bears the Original Municipal Number 242 which is still recorded in the name of late Shri Horam in the Municipal Records and no further Mutation or transfer of ownership has been recorded in the name of either the parties to the suit or the two brothers of defendant No.1.

...

20. **That the plaintiff seeks the relief of declaration that the suit property is ancestral in nature** and the plaintiff, the defendant No. 5 and 6 have contributed towards the construction of the suit property upto third floor and the property coming to the defendant No. 1 by the virtue of Will has been merged into the Joint Hindu Family along with the portion inherited by the parties to this Suit by the own volition of the defendant No. 1, which cannot at this stage be demarcated and delineated, hence, the total of the suit property is to be partitioned by metes and bounds between the parties.”

17. In the facts of this case, admittedly no HUF was created by Sh. Horam and therefore, none existed at the time of his death. Similarly, as per record no HUF has been created by Defendant No. 1 either of his own accord. There is admittedly no document executed by Defendant No. 1 declaring the suit property as a Joint Hindu Family property filed before any statutory authority including the Income Tax Department. To the contrary, the suit property has



been consistently declared by Defendant No. 1 as his personal property to the statutory authorities.

The Division Bench of this Court in **Neeraj Bhatia v. Ravindra Kumar Bhatia and Others** <sup>5</sup> (supra) explained that for converting a individual/separate property into a common hotch-potch by a Hindu, it is essential that there must pre-exist a coparcenary property; and in the absence of a pre-existing common hotch-potch, the character of an individual/separate property cannot be converted into a coparcenary property by a mere self-declaration. In this regard, it would be apposite to refer to paragraphs 36, 36.1 and 38.1 of the said judgment, which read as under: -

“36. In the facts of this case under appeal, as well there was admittedly no coparcenary and coparcenary property in existence as on 20th August, 1993 of late Sh. Balwant Lal Bhatia. The subject property was admittedly the selfacquired property of late Sh. Balwant Lal Bhatia. In these admitted facts and in view of the law settled by the Supreme Court in Mallesappa (Supra) and Golly Eswariah (Supra) as well as this Court in Kewal Krishan Mayor (Supra) as noted above, the alleged oral declaration dated 20th August, 1993 assuming it is true would have no effect in law and the same does not efface the exclusive ownership rights of late Sh. Balwant Lal Bhatia; and he would continue to remain the exclusive owner of the subject property. The alleged oral declaration dated 20th August, 1993 in the facts of this case could not change the character of the property to a joint family property. Thus, on a meaningful reading of the averments made in the plaint, the same fails to disclose any cause of action.

36.1. There is no basis in law for the Appellant/plaintiff to contend that a Hindu Male can by a mere declaration whether written or oral change the character of his self-acquired property into a joint family property even though there does not exist a coparcenary and a coparcenary

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<sup>5</sup> [Paragraphs 34, 35, 35.1, 35.2, 35.3]



property, as on the date of this declaration. If this contention of the Appellant/plaintiff is accepted, it would nullify the settled legal position that coparcenary is a creature of law and cannot be created by the action of parties and as noted above the genesis of creation of coparcenary is inheritance of a property from the common male ancestor. Therefore, late Sh. Balwant Lal Bhatia by the alleged oral declaration could not have converted the character of his self-acquired property into a coparcenary property.

...

38.1 Though in our considered opinion a self- acquired property cannot be converted into a joint family property by an individual in the absence of a pre-existing coparcenary property..."

(Emphasis Supplied)

18. Since, Defendant No. 1 did not own any coparcenary property it could not have converted the character of the suit property from individual/separate property into a Joint Hindu Family property in 1999 or any time, thereafter, as alleged in the plaint.

Thus, neither as a fact nor in law, the Plaintiff has been able to establish on the basis of the averments made in the plaint that the character of the suit property changed from individual/separate to Joint Hindu Family property.

19. The physical possession of the suit property by the plaintiff, Defendant Nos. 5 and 6 along with their family members evidences joint use of the suit property which would, however, not change the character of the suit property from an individual property of Defendant No. 1 to Joint Hindu Family property, because residing together in a house property is a normal incidence in the Indian civil society. This was also considered and opined upon by the Division Bench of this Court in **Neeraj Bhatia v. Ravindra Kumar Bhatia and Others** (supra) at paragraph 38.4 which reads as under:



38.4 .... Mere existence of the joint use of the self-acquired property of late Sh. Balwant Lal Bhatia by his sons, daughter and their family members would not in law lead to the presumption of the subject property being impressed with the character of a joint family property, as the joint use as a fact was since inception in 1973 as admitted in the plaint. Even otherwise, use of the property by family members was in ordinary course and is not evidence of change of character of the ownership, which as observed above must be substantiated with written declarations to the statutory authorities. **Consequently, the joint use would not serve as proof of creation of joint family property.**

(Emphasis Supplied)

20. The Plaintiff has averred that the Plaintiff along with Defendant Nos. 5 and 6 contributed towards the reconstruction of the superstructure between 1999 to 2009. There is no document filed by the Plaintiff in support of this bald averment. Even assuming that this averment is correct, in the considered opinion of this Court, in law this contribution would not vest any ownership rights in the suit property in favour of the Plaintiff and/or Defendant Nos. 5 and 6; and would not change the character of the suit property to Joint Hindu Family property. [Re. **M.K. Govil v. Harish Chand Govil and Others**<sup>6</sup>].

21. The Plaintiff has lastly averred that the Plaintiff has paid property taxes for the suit property. In this regard, the Plaintiff has relied upon an RTI reply dated 18.10.2022, received from Municipal Corporation of Delhi [‘MCD’].

It is trite law that property taxes are accepted by MCD from any person and the acceptance of the property taxes by MCD does not create any ownership rights in favour of the payee. In fact, the Supreme Court has clarified that even mutation entries in revenue records do not confer ownership rights. [Re. **Jitendra Singh v. State of Madhya Pradesh and**

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<sup>6</sup> 2017 SCC OnLine Del 6954 [Paragraph 18]



**Others**<sup>7]</sup>. Thus, mere deposit of the property taxes by the Plaintiff would not confer any ownership rights in favour of the Plaintiff and it would also not convert the character of the individual property of Defendant No. 1 into a Joint Hindu Family property.

22. The Plaintiff, Defendant Nos. 5 and 6 are residing in the suit property with their families, without making payment of any license fee to Defendant No. 1, who is the admitted owner of the suit property. Defendant Nos. 5 and 6 are also running shops at the ground floor of the suit property and derive income. Payment of property taxes and contributions made towards constructions as well as repairs of the suit property would be an incidence of use of the suit property by the said parties, and they cannot claim any ownership rights on the basis of these contributions.

23. To conclude, in the considered opinion of this Court, the Plaintiff, Defendant Nos. 2 to 6 are not entitled to any declaration that they are co-owners of the suit property and/or that the suit property is a Joint Hindu Family property.

In the facts of this case as is evidenced by the documents filed by the Plaintiff, the suit property is the individual/separate property of Defendant No. 1 alone and the Plaintiff as well as Defendant Nos. 2 to 6 cannot claim any share in the said property on the basis that it is a Joint Hindu Family property.

24. In view of the aforesaid finding, the Plaintiff also has no basis for seeking a declaration that the registered Gift Deed dated 13.07.2021 and the

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<sup>7</sup> 2021 SCC OnLine SC 802 [Paragraphs 6 to 8]



registered Will dated 28.06.2021 executed by Defendant No. 1 *qua* the suit property in favour of his daughter i.e., Defendant No. 3 herein is null and void.

Defendant No. 1 being the sole owner of the suit property is absolutely entitled in law to execute both the Gift Deed dated 13.07.2021 and the Will dated 28.06.2021. The only basis for seeking a declaration of nullity *qua* these documents pleaded in the plaint is the presumption that the Plaintiff and Defendant Nos. 2 to 6 have a share in the suit property. However, this presumption in the plaint is without any legal basis as held hereinabove.

25. In the written submissions filed by the Plaintiff, it has been alleged that Defendant No. 1 has executed the said Gift deed and the said Will under the undue influence of Defendant No. 3. However, no such averment has been pleaded by the Plaintiff in the plaint and therefore the same cannot be urged in the written submissions.

Nevertheless, this Court takes note that Defendant No. 1 had appeared before this Court on 23.07.2025 and addressed submissions. In his submissions, Defendant No. 1 categorically and unequivocally asserted his decision of execution of the Gift Deed dated 13.07.2021 and the Will dated 28.06.2021 *qua* the suit property in favour of Defendant No. 3.

Defendant No. 1 was clear in his communication, and this Court was satisfied that Defendant No. 1 is not acting under any undue influence. In fact, Defendant No. 1 asserted that he has been subjected to immense harassment by the Plaintiff and other parties to the suit with respect to the inheritance of the suit property. Defendant No. 1 stated that he has been disrespected and harassed by the family members and the decision to disinherit/exclude them was conscious and deliberate.



26. On 23.07.2025, the Court impressed upon Defendant No. 1 to amicably resolve the disputes with the Plaintiff and the other family members; however, Defendant No. 1, explained that even prior to the hearing dated 23.07.2025, he had been subjected to immense physical harassment by the Plaintiff and the other family members making their differences irreconcilable.

27. Even though for the reasons - (i) that the Plaintiff since he has no right in the suit property and (ii) that it has not been pleaded in the plaint; the issue of undue influence *qua* the execution of the aforesaid documents, cannot be agitated by the Plaintiff; this Court on the basis of its interaction with Defendant No. 1 at the hearing dated 23.07.2025 is satisfied that Defendant No. 1 has executed the gift deed and the Will after due deliberation and without any undue influence from Defendant No. 3. The Court cannot compel Defendant No. 1 to change his succession plan as it is the absolute right of Defendant No. 1, since he is the absolute owner of the suit property.

28. The Plaintiff in its written submissions has pleaded that his mother, Smt. Sheela Devi has independent rights of residence in the suit property. And she is asserting those rights before the competent Court under the Protection of Women from Domestic Violence Act, 2005. It is asserted that she as well is a necessary party to these proceedings.

The reliefs sought in the plaint do not pertain to Smt. Sheela Devi. There is no averment in the plaint with respect to her rights. Therefore, reference to rights of Smt. Sheela Devi in the written submissions filed by the Plaintiff is not relevant for deciding the issue of cause of action.

Nevertheless, Defendant No. 1 at the hearing dated 23.07.2025 stated that he acknowledges his legal obligation to maintain his wife, Smt. Sheela Devi and her right of residence in the suit property. He stated that Smt. Sheela



Devi is residing in the suit property, and he has not interfered with her possession. Defendant No. 3 was present in Court on 23.07.2025 and did not dispute the submissions of Defendant No. 1. Defendant No. 1's said statement is taken on record and it shall bind both, Defendant No. 1 and Defendant No. 3. Smt. Sheela Devi will be at liberty to rely upon this statement of Defendant No. 1 before the competent Court, where her complaint under the Protection of Women from Domestic Violence Act, 2005 is pending.

### **Conclusion**

29. The findings returned and directions issued by the Court are summarised as under: -

- a. Defendant No. 1 is the sole and absolute owner of the suit property bearing no. **242-C, Hari Nagar Ashram, New Delhi – 110014**. The suit property is his individual/separate property.
- b. Since, the suit property is not a Joint Hindu Family Property, therefore, the Plaintiff and Defendant Nos. 2 to 6 are not entitled to any share in the suit property on the assumption of coparcenary rights, as alleged by the Plaintiff. The said assumption is misconceived in facts and in law.
- c. Defendant No. 1 has consciously executed the registered Gift Deed dated 13.07.2021 and the registered Will dated 28.06.2021 *qua* the suit property in favour of his daughter [Defendant No. 3 herein] without any undue influence. Since Defendant No. 1 is the absolute owner of the suit property, Plaintiff and Defendant Nos. 2, 4 to 6 cannot maintain a challenge to the Gift Deed and the Will.
- d. Defendant No. 1 has acknowledged his legal obligation to maintain his wife – Smt. Sheela Devi and her right of residence in the suit property; both Defendant Nos. 1 and 3 are held bound by the said statement.



30. The Defendant No. 1 is held entitled to legal costs of Rs. 50,000/- to be paid by the Plaintiff within four (4) weeks.
31. In view of the aforesaid findings, this Court is of the considered opinion that the plaint fails to disclose any cause of action as the Plaintiff has no legal basis for his claims of co-ownership or otherwise and is therefore, liable to be rejected. Accordingly, the plaint is hereby rejected in exercise of the power under Order VII Rule 11(a) of CPC.
32. With the aforesaid directions, the captioned application stands allowed.
33. Interim order dated 13.02.2023 stands vacated.
34. The pending applications, if any, stand disposed of.
35. Future dates stand cancelled.

**MANMEET PRITAM SINGH ARORA**  
**(JUDGE)**

**OCTOBER 10, 2025/msh/MG**

*Click here to check corrigendum, if any*