



\$~51

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

% **Date of Decision: 06th May, 2025**

+ **CM(M) 1901/2023 & CM APPL. 24518/2025**

INDRAVATI AND ORS

.....Petitioner

Through: Mr. Abhishek Kumar, Advocate.

versus

MUKESH AND ORS

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM(M) 1901/2023 & CM APPL. 24517/2025 (seeking early hearing)

1. Petitioner seeks early hearing in the present matter.
2. The next date of hearing is 03.07.2025, which is not far off.
3. However, since there is a request for stay of the proceedings before the learned Trial Court the main petition, as such, has been taken up today itself.
4. The point involved in the present petition is very short and precise.
5. One Mr. Ram Meher (since deceased) filed a suit for declaration, cancellation of deed and permanent injunction.
6. The plaintiff claimed that he was Bhumidar in possession of the land in question and sought cancellation of documents, which alleged to have been got executed by playing *fraud* defendant No.2-Mr. Jaipal.
7. An application under Order I Rule 10 CPC was moved by daughter of the deceased plaintiff and she sought her impleadment in the abovesaid suit.
8. According to her, earlier she was never aware about the abovesaid suit



and the moment she learnt about the same, she filed an application seeking her impleadment in the matter.

9. According to her, she, being legal heir, has also a right in the property in question which could not have been sold by her father without their consent.

10. The learned Trial Court, after careful perusal of the entire matter, came to the conclusion that she was not a necessary or proper party in the suit in question. It also observed that it was not a case where her presence was absolutely necessary and that, without her presence, the issue in hand could not effectively and completely be adjudicated.

11. The relevant observation made in this regard in para 6 of the impugned order reads as under:-

“6. In the present case, as stated before, the plaintiff has sought cancellation of deeds against defendant no.1 and 2 which can be granted by the court even without impleading the applicants as a party to the suit. It would be also relevant to state that the present matter is at the stage of final arguments and impleadment of the applicants at this stage would result into a denovo trial whereas the non-impleadment of the applicants would not cause any harm to the rights of the applicants as the applicants for their share, if any, in the property in question can very well file a separate suit as per law. The present matter is at the stage of final arguments and was instituted in the year 2004 which in the opinion of the court should be decided expeditiously without further delay. Hence, the present application for the reasons as stated above stand dismissed.”

12. The sole grievance of the petitioner/applicant-sister is to the effect that the property in question was ancestral and it could not have been sold. She does not realise that when her father had filed the abovesaid suit, he claimed that the agreement was got executed by perpetuating a *fraud* and, therefore, her father was seeking cancellation of the documents in question. If the suit is decreed, the property would come back to the kitty of plaintiff (since



deceased).

13. If the petitioner is of the view that the property in question is ancestral and that she has a right, there is no one to prevent her from filing a separate suit seeking partition. By permitting her impleadment, evidently and manifestly, the nature of the suit is going to be completely changed and, therefore, by no stretch of imagination, it can be inferred that she is either a necessary or, for that matter, a proper party.

14. The suit as already noted above, is for declaration and cancellation of deed and if she is permitted to be impleaded, she would change the nature of the suit by attempting to portray and convert it into a matter seeking partition, which is neither appropriate nor justifiable.

15. In view of the above, this Court does not find any reason to interfere with the impugned order and the petition is, accordingly, dismissed.

16. Pending application, if any, stands disposed of.

17. The next date i.e. 03.07.2025 stands cancelled.

(MANOJ JAIN)
JUDGE

MAY 6, 2025/ss/SS