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

% **Date of decision: 21<sup>st</sup> April, 2025**

+ **FAO 24/2018 & CM APPL. 1942/2018**

**RIMA GULSHAN** .....Appellant  
Through: Ms. Zubeda Begum and Ms.  
Vanessa Singh, Advs.

versus

**VISHAL SALUJA & ANR.** .....Respondents  
Through: Mr. Kiran Singh, Adv. for R-1.  
Ms. Anupam Dhingra, Adv. for R-2

**CORAM:**  
**HON'BLE MR. JUSTICE DHARMESH SHARMA**

**DHARMESH SHARMA, J. (ORAL)**

1. Having heard the learned counsels for the parties and on perusal of the record, this Court proceeds to decide the present appeal preferred by the appellant under Order XLIII(1)(r) Code of Civil Procedure, 1908 [“CPC”] for setting aside the impugned order dated 23.09.2017. Insofar as the application seeking contempt under Order XXXIX Rule 2A of the CPC has been dismissed against Mohinder Pal Singh, who was purportedly acting as an agent on behalf of the respondent No.1/defendant and allegedly aided & abetted in flouting the interim directions of this Court dated 06.11.2012.

2. In a nutshell the parties are siblings, the appellant being the sister of the two respondents. She has preferred “a suit for declaration and partition of the properties and consequential reliefs” against her two brothers in



respect of certain properties left behind by their father, namely Mr. Ajit Singh. It appears that on the filing of the suit by the appellant against her two brothers/defendants/respondents, learned trial Court on an application under Order XXXIX Rules 1 & 2 of the CPC directed the parties to maintain the *status quo* with respect to the title and possession of the suit properties i.e. No. 21-D, 4<sup>th</sup> Floor, DDA MIG Flats, Sheikh Sarai, Phase-I, New Delhi and No. G-3, New Delhi South Extension, Part-II, New Delhi.

3. The grievance of the appellant was that the aforesaid order dated 06.11.2012 was flouted by the defendant No.1 in connivance with his father-in-law, Mr. Mohinder Pal Singh and a third person, who allegedly on 19.11.2012 came to the property bearing No. G-3, South Extension, Part-II, New Delhi and broke open the locks of the apartment and thereafter forcibly trespassed into the said apartment. It is also alleged that they committed theft and stole certain valuable goods including jewellery from the site.

4. Suffice to state that the learned trial Court on an application under Order XXXIX Rule 2A of the CPC passed the impugned order dated 23.09.2017, which reads as under:

“The plaintiff and the defendant are brother and sister daughter and son of late Sh. Ajit Singh and are resident of USA. The plaintiff by way of the present suit seeks a declaration to the effect that the plaintiff is owner in possession to the extent of 66.7% share in property bearing no.21-D, Fourth Floor, DDA, MIG Flats, Sheikh Sarai, Phase I, New Delhi and is owner in possession to the extent of 83.3% share in property described as Front Portion of First Floor of property bearing no. G-3, New Delhi South Extension Part II, New Delhi and for partition of the suit properties in accordance with the share declared along with consequential relief of permanent injunction on a set of facts that the late father of the parties had purchased property bearing no.21-D, Fourth Floor, DDA, MIG Flats, Sheikh Sarai, Phase I, New Delhi during his



lifetime and the parents of the parties. The late mother and the late father of the parties had jointly purchased property described as Front Portion of First Floor of property bearing no. G-3, New Delhi South Extension Part II, New Delhi and that the father of the parties died intestate on 25.9.2010 leaving behind the widowed mother of the parties and the plaintiff and the defendant as the only surviving legal heirs. The mother of the parties died on 25.3.2012 and has left behind the duly executed legal invalid Will dated 29.12.2011 bequeathing her share in the properties in favour of the plaintiff. The plaintiff along with the suit has also filed an application u/o 39 Rule 1 and 2 and it was ordered that the parties shall maintain status quo with regard to title and possession of the suit properties under the order issuing notice to the defendants in the main suit as well as the application u/o 39 Rule 1 and 2. The plaintiff thereafter filed an application u/o 39 Rule 2A registered as IA no.3532 of 2013 in which the father in law of the defendant is also made a party respondent. Ld. counsel for the plaintiff has sought an adjournment on the round that the paperbook of the ld. counsel is not complete. Upon a perusal of the contents of the application and the ex parte order vide which the parties were directed to maintain status quo with reference to title and possession of the suit property I find that the application u/o 39 Rule 2A against the father in law of the defendant is perse not maintainable as the father in law of the defendant is not a party to the proceedings and the status quo order is as against the parties i.e. the plaintiff and the defendant and not the father in law of the defendant. The application as regards the father in law of the defendant namely Sh. Mohinder Pal Singh is dismissed.

Arguments heard on the application u/o 6 Rule 17 on behalf of the defendant. Plaintiff may file written submission in respect of the application u/o 6 Rule 17.

For orders on application u/o 6 Rule 17 put up on 13.10.2017. Ld. counsel for the defendant submits that another application on behalf of the defendant for placing on record documents is pending consideration. As the issues are yet to be settled, the application filed on behalf of the defendant for placing on record documents is allowed and the documents are taken on record.

For framing of issues and for arguments on application u/o 39 Rule 2A put up on 27.11.2017. The date fixed is not convenient to the Ld. Counsel for the defendant who is stated to be in personal difficulty on 27.11.2017.

For arguments and framing of issues put up on 15.10.2017.”

5. At the outset, on a bare perusal of the aforesaid order, this Court is





9. Nothing contained in this order shall tantamount to an expression of opinion on the merits of the case.
10. The pending application stands disposed of.

**DHARMESH SHARMA, J.**

**APRIL 21, 2025**/*Sadiq*