



2025:DHC:11414-DB



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

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Judgment reserved on: 12.12.2025

Judgment pronounced on: 17.12.2025

Judgment uploaded on: 17.12.2025

+ FAO(OS) 83/2023, CM APPL. 36897/2023, CM APPL. 31995/2024, CM APPL. 7142/2025, CM APPL. 76671/2025 and CM APPL. 76672/2025

VIPIN KUMAR MANAKTALA

.....Appellant

Through: Mr. Ashish Dholakia, Sr. Adv.
along with Mr. Subhoday
Banerjee and Mr. Ritesh
Chowdhary, Advs.

versus

SHRI VINOD KUMAR DEAD THROUGH LR SHRI KARUN
MANAKTALA & ORS.

.....Respondents

Through: Mr. B. K. Sood, Mr. Manik
Sood and Ms. Jyotsna
Bhardwaj, Advs. for R-1, 2, 3
and 7.

Mr. Harish Malhotra, Sr. Adv.
along with Mr. Rajender
Agarwal and Mr. Anoop
Kumar, Advs. for R-4.

Mr. Ashok Chhabra and Mr.
Kunal Jaggi, Advs. for R-5.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

ANIL KSHETARPAL, J.

1. The Plaintiff assails the correctness of the order passed on 04.07.2023 [hereinafter referred to as 'Impugned Order'] by the



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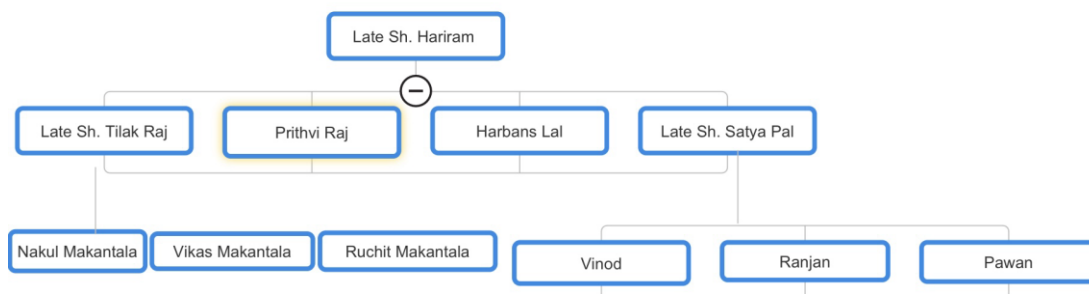
learned Single Judge [hereinafter referred to as 'LSJ'], while modifying the injunction order passed on 22.12.2020. Now, as per modified order, the Defendants [the Respondents herein] have been restrained from alienating, 25% of the Suit Property.

2. For sake of convenience, the parties before this court shall be referred to in accordance with their status before the LSJ.

FACTUAL MATRIX

3. In order to comprehend the issues involved in the present case, it is imperative to cull out the genealogy of the family and the relevant background facts, which are set forth hereinafter.

4. The genealogy of the family reads as under:



5. While instituting the suit and the interim applications, the Plaintiffs in brief, asserted as under:

5.1 That Late Sh. Hariram was the common ancestor, who left behind four sons, namely, Sh. Satya Pal, Sh. Tilak Raj, Sh. Prithvi Raj and Sh. Harbans Lal besides daughters. Sh. Tilak Raj, Sh. Satya Pal and Sh. Prithviraj Manaktala were the co-owners of the ancestral property bearing no.39, Rama Road, Industrial Area Scheme,



Najafgarh Road, New Delhi, having an area of 3925.6 meters [hereinafter referred to as the 'Suit Property'].

5.2 After the partition of the country, the family of the parties migrated to Delhi and set up their business. The Suit Property was purchased *vide* a Conveyance Deed dated 21.04.1971 in the names of Sh. Satya Pal, Sh. Tilak Raj and Sh. Prithvi Raj. In the said property, the business of manufacturing of soap had been carried on since 1953 under the name of Gora Mal Hari Ram. Sh. Satya Pal, being the eldest son, was looking after the entire business along with his father and younger brother Sh. Harbans Lal, who later, in the year 1964, separated and retired completely from the business and property of the family.

5.3 The Plaintiff claims that by an Oral Family Settlement Sh. Satya Pal, Sh. Tilak Raj and Sh. Prithvi Raj, it was mutually decided that the Suit Property would fall exclusively to the share of Sh. Satya Pal, while the other three jointly owned properties would come to the share of Sh. Tilak Raj and Sh. Prithvi Raj, leaving an option onto them to either keep the same jointly or to separate.

5.4 There were no legal impediments with respect to transferring the title of the other three properties in the name of Sh. Tilak Raj and Sh. Prithvi Raj, however, due to legal impediments and practical difficulties, the said Oral Family Settlement could not be formally implemented with respect to the Suit Property. Therefore, no writing was executed for transferring this Suit Property along with the business in favour of Sh. Satya Pal.



5.5 Subsequently, Sh. Tilak Raj filed a suit for partition being CS(OS) 2850/1987 against Sh. Satya Pal and Sh. Prithvi Raj, claiming co-ownership of the Suit property. The said suit was resisted by Sh. Satya Pal, claiming exclusive ownership of the Suit Property basis the Oral Partition through Family Settlement. Sh. Prithvi Raj, however, filed his no objection to the claim of partition.

5.6 During the pendency of the said suit, Sh. Satya Pal died on 28.07.2006, and his legal representatives (LRs) were brought on record, including the Plaintiffs. The Court issued notice *vide* order dated 13.11.2006 on the said application to the proposed legal heirs, that is Sh. Vipin Manaktala [Plaintiff herein], Sh. Vinod Kumar [Defendant No.1 herein], Sh. Ranjan Kumar [Defendant No.2 herein] and Sh. Pawan Kumar [the Defendant No.3 herein], who were already contesting parties to the said suit.

5.7 The Plaintiff herein asserts that he was served with the said notice on 28.02.2007. Since his brother, Defendant No.1 herein, was already contesting the said suit, he informed the Plaintiff herein that he would protect the interest of the Plaintiff herein as well, through his own advocate.

5.8 The Plaintiff herein further asserts that in the said suit, the learned counsel submitted before this Court on 15.03.2007, that he appears on behalf of the Plaintiff herein also, and took time to file a reply on behalf of him to the said application. However, on 11.05.2007, the said counsel informed the Court that he would not be appearing on behalf of the Plaintiff herein. The Plaintiff herein,



however, remained under the bonafide impression that he was being duly represented in the said suit.

5.9 The aforesaid suit was disposed of in terms of Memorandum of Family Settlement [hereinafter referred to as 'MoFS'] that was executed between Sh. Tilak Raj, Sh. Vinod, Sh. Ranjan and the Defendant No.7. The suit was decreed in terms of settlement dated 13.09.2012. However, the Plaintiff herein was neither a party to nor a signatory of the aforesaid MoFS.

5.10 The Plaintiff herein claims that, thereafter, *vide* Sale Deed registered on 18.01.2013 in terms of MoFS, Sh. Tilak Raj, Sh. Vinod Kumar, and Sh. Ranjan Kumar transferred 1/3rd share of the Suit Property for a sum of Rs.66,10,500/- to M/s Gora Mal Hari Ram Pvt. Ltd. Further, the Plaintiff herein claims that it is only around the beginning of the year 2020, wherein it was discovered that a third party is in occupation of a portion of the Suit Property. Upon inquiry, it was revealed that a portion of the Suit Property has now been sold to Smt. Raj Kumari Gupta [Defendant No.4 herein], *vide* Sale Deed dated 07.10.2019.

5.11 Upon further inquiry, it was revealed that in MoFS, the Defendant Nos. 1 and 2, without obtaining the prior consent of the other legal heirs of Late Sh. Satya Pal, including the Plaintiff herein, had given away 1/3rd of the Suit Property to Sh. Tilak Raj and had transferred another 1/3rd of the Suit Property to M/s Goral Mal Hari Ram Pvt. Ltd. The Plaintiff herein claims that it is only thereafter, that it has also come to his knowledge that Defendant No.3 has also sold



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327.1 sq. meters of the Suit Property to M/s Gora Mal Hari Ram Pvt Ltd *vide* Sale Deed dated 19.06.2020.

5.12 As the matter presently stands, 2/3rd portion of the Suit Property was alienated by Defendant Nos.1 and 2 in collusion with Defendant No.3. Out of the remaining 33% of the Suit Property that was left, 327.1 sq. mtr. of the Suit Property was sold by Pawan Manaktala to M/s Gora Mal Hari Ram Ltd. Consequently, only 25% of the property remains unalienated and ought to be declared and partitioned by metes and bounds in the exclusive name of the Plaintiff herein.

5.13 Thus, the Plaintiff herein filed the present suit in the year 2020 seeking following reliefs:

“A. Declare that the Memorandum of Settlement dated 16th day of April, 2012 between Tilak Raj and Vinod Kumar, Ranjan Kumar and Gora Mal Hari Ram Ltd. as null, void, non-est in law (Document at srl no. 22 in the index-iv); and/or

B. Declare that the Judgment and decree dated 13th day of September, 2012 passed by this Hon'ble Court in CS(OS) No. 2850/1987 obtained through exercise of fraud, as null, void, non-est in law and not binding against plaintiff (Document at srl no. 26 in the index-iv); and/or

C. Declare that the Sale Deed registered vide Document No.698 in Additional Book No.1 Volume No.20578 on i pages 114 to 123 dt.18.01.2013 with the office of the Sub-Registrar, Sub-Distt. No. II Janakpuri, New Delhi executed by (1) Shri Prithvi Manaktala as Vendor and (2) Shri Tilak Raj as Confirming Party in favour of M/s Gora Mal Hari Ram Pvt. Ltd., null, void, non-est in law (Document at srl no. 27 in the index-iv); and/or

D. Declare that the Sale Deed dated 7.10.2019 between M/s Gora Mal Hari Ram Ltd. and Smt. Raj Kumari Gupta, - alienating land measuring 1565 sq. Yds. (1308.5 sq. mtr.), which is 1/3rd share in Plot No. 39, with construction made on the said portion; vide sale deed bearing registration No. 11661 in Addl. Book No. 1 Volume No. 24,589 on pages 71-79 as illegal, null, void, non-est in law (Document at srl no. 28 in the index-iv); and/or

E. Pass a preliminary decree for partition of 1/4th share of the Plaintiff in the said property identified as 39, Rama Road, Najafgarh Industrial Area, New Delhi.

F. Pass a final decree of partition of 1/3rd share of the Plaintiff in the said property by dividing it by metes and bounding and allocating and handing-over Plaintiff's separate share to him in his exclusive possession free from any interference.

G. A decree for rendition of account against Defendant No.1 and an inquiry into damages, for use and occupation against Defendant. No.1 to 5 (a), (b) and (c) and Defendant no. 7 jointly and/or severally; and/or



H. Payment of the amount that may be determined as a result of the inquiry pursuant to the decree prayed for in "G" above.

I. Interest @18% p.a. on the amount that may be decreed /determined as payable.

J. Pass a decree of permanent injunction restraining the defendants no. 1 to 5 (a), (b), (c), and 7 or their heirs/assignees/agents/etc. from alienating, selling, encumbering, assigning, leasing, licensing or in any manner transferring or conveyancing or creating any 3rd party rights in the suit property i.e. 39, Rama Road, Najafgarh Industrial Area, New Delhi or any part thereof to any third party, in any manner whatsoever, until the time the property is partitioned legally by metes and bounds; and/or

K. Grant costs of suit including counsel fee and any other incidental costs."

6. *Per contra*, the Defendants by filing the written statement have made the following submissions:

6.1 The Defendants make a prior submission that the Plaintiff were duly notified by a written letter dated 24.03.2012 and was put to notice about the aforesaid settlement sought to be negotiated, which was duly replied to by the Plaintiff *vide* his letter dated 23.04.2012, where the Plaintiff has not disclosed nor mentioned as to what steps did he take to safeguard his interests in the suit, in the event, said settlement was stated to be in conflict with his interest. It is without prejudice to the fact that the Plaintiff was always aware about the execution of said sale deed right from its execution.

6.2 It is further submitted that since no challenge can be made against the aforesaid Sale Deed dated 18th January, 2013, executed in favour of M/s Gora Mal Hari Ram Ltd., therefore, no challenge will lie against the Sale Deed dated 07th October 2019, executed by the said company in favour of Defendant No.4.

6.3 The Defendants further averred that *vide ex-parte* order dated 22.12.2020, the Court stayed the alienation of the attached suit property. Thereafter, two applications were filed seeking vacation of



the said interim order, one by the Defendant No.4 I.A. No. 2851 of 2021 and second by the Defendant No.1, 2, 3 and 7 I.A. No. 2880 of 2021.

7. In substance, the plaintiff's case is that he has been kept in dark and that the decree dated 13.09.2012, passed on the basis of MoFS, is not binding upon him since he was neither a signatory to nor a party to the said the MoFS and consequently, is not bound by the decree passed in terms thereof.

8. The LSJ, *vide* the Impugned Order, modified the order dated 22.12.2020 while continuing the injunction order *qua* unalienated portion of the Suit Property, admeasuring approximately 25% of the Suit Property, standing in the name of the Defendant Nos. 1, 2, 3 and 7, as identified by the Plaintiff in paragraph 4(t) of the Plaint.

CONTENTION OF THE PARTIES

9. *Per contra*, the learned senior counsel for the Plaintiff advanced the following contentions:

9.1 The Plaintiff herein averred that the suit has been filed *qua* entire property and all acts of alienation thereof, and that the order dated 22.12.2020, did not deserve any modification, particularly in view of the strong prima facie case made out by the Plaintiff. He submits that though the Plaintiff herein is a member of the family, he was never made a party to the MoFS, pursuant to which the decree was passed. It was further submitted that a substantial portion of the Suit property has already been transferred either in favour of Smt. Raj



Kumari Gupta or in favour of M/s Gora Lal Hari Ram Ltd., a company belonging to the Defendant No.1, Sh. Vinod Kumar.

9.2 It is contended that it is amply evident that there is no cogent or reliable material to establish that any letter was issued in April 2012 informing the Plaintiff herein about the MoFS. The Plaintiff herein had nothing to gain by remaining silent, but he could not approach the court as he was kept in dark and was made to believe that good sense had prevailed upon his brothers.

9.3 While assailing the Impugned Order, the learned counsel representing the Plaintiff herein further makes a submission that the Court erred in relying on the Paragraph No.4(t) of the plaint to restrict the injunction only *qua* 25% share of the Suit Property. He further submits that, despite the order dated 08.08.2023, certain part of the Suit Property was leased out, incorporating clauses i, ii and xiii in the said lease deed, declaring that the pendency of the litigation would not affect the rights of the lessee.

9.4 The registered lease deed dated 16.08.2023 blatantly disobeys the injunction order dated 08.08.2023 passed by the Court and further jeopardises the interest of Plaintiff herein in the Suit property by subjecting the property to an enhanced risk of alienation by keeping it open to sublease etc., at the will of the lessee, without any requirement of seeking permission of the Court.

9.5 The Plaintiff herein further contends that in a suit for partition, a co-owner cannot claim any exclusive right in a specific portion of



the Suit Property till the property is finally divided by metes and bounds.

10. Learned Counsel for the Defendants advanced the following submissions:

10.1 The Defendants contended that the Plaintiff herein has not challenged the sale deed dated 07.10.2019 and that the Defendant No.4 is a *bonafide* purchaser of the said property for valuable consideration, hence, there is no occasion for continuation of injunction against the Defendant No.4.

10.2 The Defendants further averred that the Plaintiff herein was aware of the pending litigation, and, despite receipt of Notice, he chose not to appear in the previous suit. It is submitted that the Court has already adequately protected the Plaintiff's interests, as his share would, in any event, not exceed 25% of the property left behind by Late Sh. Satyapal.

ANALYSIS AND FINDINGS

11. Heard the learned counsel of the parties at length and with their able assistance perused the paper book.

12. At the outset, it is settled law that appellate interference with discretionary interim orders passed by the Court of first instance is warranted only if the discretion exercised is shown to be arbitrary, perverse, or contrary to settled principles of law. The Appellant must, therefore, demonstrate a grave error in the exercise of discretion, which, in the present case, has failed to do so.



13. The Plaintiff's case primarily rests on two foundational assertions, namely, that he was not a signatory to the MoFS and that the decree dated 13.09.2012 passed by the Court is, therefore, not binding upon him. At the interim stage, the Court has expressly protected the Plaintiff's possible share, which, on the Plaintiff's own showing, cannot exceed 25% of the Suit Property. Thus, the contention that the Plaintiff has been rendered remediless is misconceived.

14. An injunction being an equitable and discretionary relief, the Court is required to apply the well-settled trinity test, namely, whether the applicant has established a *prima facie* case, whether the balance of convenience lies in his favour and whether refusal of such relief would result in irreparable loss which cannot be adequately compensated in terms of money.

15. Section 52 of the Transfer of Property Act, 1882 [hereinafter referred to as 'TPA'] embodies the doctrine of *lis pendens* and operates to protect the rights of the parties to the litigation, even in cases where the suit property is alienated during the pendency of the proceedings. Any transfer effected *pendente lite* remains subject to the outcome of the suit and does not prejudice the rights of the contesting parties.

16. Grant of injunction *qua* the entire Suit Property would not be in the interest of justice, particularly when the Plaintiff, even if successful on merits, cannot claim a share exceeding 25% thereof. It is an admitted position that substantial portions of the property had



already been alienated, partly in favour of Defendant No.4 and partly in favour of Defendant No.7, a private company, prior to institution of the present suit.

17. In these circumstances, the Plaintiff has failed to establish any *prima facie* right in respect of the remaining 75% share of the Suit Property. Correspondingly, neither does the balance of convenience lie in his favour, nor is there any likelihood of irreparable loss or injury being caused to him, which cannot be suitably compensated at a later stage.

18. Additionally, the Plaintiff's interests stand sufficiently safeguarded by operation of the doctrine of *lis pendens* under Section 52 of the TPA, rendering the grant of a wider injunction unnecessary.

19. At this stage, it would be neither appropriate nor permissible for the Court to return any conclusive finding on the basis of the letter dated 24.03.2012 and the response thereto dated 23.04.2012, or on the aspect that the Plaintiff chose not to actively participate in the proceedings until the year 2020. Whether the Plaintiff was, in fact, misled by his brothers, as claimed, is a matter which requires evidence and is, therefore, to be adjudicated at the stage of trial, and not at the interlocutory stage.

20. Nevertheless, the aforesaid conduct of the Plaintiff, viewed in the context of his admitted knowledge of litigation, is a relevant consideration while exercising the Court's equitable discretion.



21. The Plaintiff herein seeks continuation of injunction even against Defendant No.4, despite the absence of any interim restraint at the time of sale in 2019, no prima facie material to demonstrate Defendant No.4's participation in alleged fraud, and failure to establish knowledge of *inter se* family disputes at the time of purchase. The LSJ was, therefore, justified in declining to grant an injunction against Defendant No.4.

22. Moreover, with regards to the contention placed upon by the parties on the reliance on Paragraph 4(t) of the Plaint, the Plaintiff herein cannot be permitted to approbate and reprobate at the same time. Having specifically pleaded that only a 25% share of the Suit Property remains unalienated, the Plaintiff cannot now contend that injunction ought to extend beyond what he himself acknowledges as available for protection. The LSJ has merely identified the maximum possible share of the Plaintiff based on his own pleadings and protected that share from further alienation. Thus, the LSJ has merely confined the relief to what survives for adjudication.

23. The grievance pertaining to the lease deed executed during the pendency of the proceedings, is subsequent to the Impugned Order, raises independent factual issues, and is amenable to appropriate remedies before the LSJ. It cannot form the basis to expand interim relief in appeal, particularly when the core injunction over the unalienated property continues to operate.

24. In view of the aforesaid circumstances, the balance of convenience clearly favours protection of unalienated portion of the



Suit Property and non-interference with completed transactions involving third parties. The Plaintiff suffers no irreparable injury, as his alleged share stands adequately secured. Conversely, extending the injunction over alienated portions would cause grave prejudice to third-party rights and undermine commercial certainty.

25. Accordingly, the Impugned Order reflects a balanced, cautious, and legally sound exercise of judicial discretion, protecting the Plaintiff's interests without unsettling, vested rights.

CONCLUSION

26. In light of the foregoing discussion, this Court finds no illegality, perversity or error or that an incorrect approach was adopted by the LSJ in the Impugned Order.

27. Hence, having found no merit, the present Appeal, along with pending applications, stands dismissed.

28. Needless to observe that this order shall not be construed as final expression of the parties before the LSJ.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

DECEMBER 17, 2025

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