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

Date of decision: 23<sup>rd</sup> JANUARY, 2026

IN THE MATTER OF:

+ **I.A. 30625/2024**

IN

**CS(OS) 73/2019**

SH. DEEPAK TARA

.....Plaintiff

Through: Ms. Neeha Nagpal and Mr. Nikunj Mahajan, Advocates and Plaintiff in person.

versus

SH. BAIJ NATH TARA & ORS.

.....Defendants

Through: Mr. Rajat Aneja, Mr. Saubhagya Chauriha, Mr. Aditya Sharma, Advocates for D-2 to 5.

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT**

**I.A. 30625/2024**

1. This is an Application under Order XXXIX Rule 1&2 read with Section 151 of the Code of Civil Procedure, 1908 (“CPC”) seeking *ex parte ad interim* injunction, restraining the Defendants from restricting and obstructing the right of the Plaintiff/Applicant to access/enjoy the Suit Property and specifically the room on the ground floor as shown in red colour in the Site Plan attached with the Plaint.

2. The instant Suit is one for declaration, partition and injunction, that the Plaintiff is entitled to 1/7<sup>th</sup> share of the property being A-23, Nizamuddin



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East, New Delhi-110013(“**Suit Property**”) for partition of the Suit Property by metes and bounds and putting the Plaintiff in possession of his 1/7<sup>th</sup> share.

3. It is the case of the Plaintiff that a Perpetual Lease Deed dated 05.01.1961 with the respect to the Suit Property was executed in favour of Late Dwarka Nath Tara. Further, a Conveyance Deed dated 09.12.1999, was executed by the competent authority, i.e., the Land & Development Office (L&DO), in favour of Late Dwarka Nath Tara with respect to the Suit Property.

4. It is stated that Dwarka Nath Tara passed away on 20.02.2001 leaving behind his wife and children. It is the case of the Plaintiff that the Suit Property has yet not been partitioned.

5. The Plaintiff is a Swedish citizen and at the time of filing the Suit in the year 2019, he was about 75 years and has been residing in Sweden for more than 45 years along with his wife and children. It is stated that the Plaintiff has been frequently visiting India to meet his parents.

6. It is the case of the Plaintiff that his father used to visit him regularly in Sweden. Pursuant to the death of his father, whenever the Plaintiff used to visit India, he used to reside at ground floor of the Suit Property which has been shown in red colour in the Site Plan, while the other Defendants were in possession of the other areas of the Suit Property.

7. It is stated that subsequently the siblings of the Plaintiff became *malafide* since 2011, started playing nuisance whenever Plaintiff visited India and they would not allow him to approach his room peacefully, the idea being to ultimately oust the Plaintiff from the Suit Property altogether and deprive him of his rightful share.



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8. It is stated that the evil designs of the Defendants came to be known to the Plaintiff, when he got knowledge that the Defendants have surreptitiously approached the authorities and got the Suit Property mutated in the name of Defendant No.4/Pradeep Tara, resulting in filing of FIR No.282/2011 dated 22.11.2011, registered at Police Station, Lajpat Nagar for offences under Section 468 and 471 of the Indian Penal Code, 1860.

9. It is stated that when the Plaintiff made a request for partition of the Suit Property on 25.11.2018, he was physically assaulted by the Defendants, ultimately leading to filing of the present Suit.

10. *Vide* Order dated 11.02.2019, this Court directed the parties to maintain *status quo* regarding the title and possession of the Suit Property till further orders. The said Order has not been varied till date and the same is reproduced as under:-

*“This application is filed under Order 39 Rule 1 and 2 CPC. It is pleaded that on 5.1.1961 a perpetual lease was executed of property A-23, Nizamuddin East, New Delhi-110013 in favour of Late Shri Dwarka Nath Tara. Shri Dwarka Nath Tara father of the plaintiff and defendants No.1 to 5 and husband of defendant No.6 died on 20.2.2001. Hence, the present suit for partition.*

*Plaintiff has made out a prima facie case. Parties will maintain status quo regarding title and possession till further orders. Plaintiff to comply with provisions of Order 39 Rule 3 CPC within three days from today.*

*Issue notice to the non-applicants by ordinary process and speed post returnable on the date fixed above.”*

11. Written Statement has been filed by Defendant No.3/Ashok Tara.



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According to Defendant No.3, Late Dwarka Nath Tara had executed a Will dated 20.02.1993, wherein, the ground floor of the Suit Property including all household goods were to be inherited by Defendant No.4/Pradeep Tara, subject to payment of Rs.4,00,000/-, in ten annual instalments of Rs.40,000/- each to two siblings, namely, Plaintiff/Deepak Tara and Defendant No.5/Ms. Shama Bengston. It is stated that after the said Will, the Plaintiff has no right in the Suit Property. It is also stated that it is due to the disturbance caused by the Plaintiff that the mother of the Plaintiff had to file complaints and there is evidence of police complaints lodged by his mother.

12. The instant Application has been filed by the Plaintiff stating that on 23.11.2023, when the Plaintiff visited Delhi and wanted to reside in his room of the Suit Property, the Defendants in collusion with Police restricted his entry in the Suit Property.

13. It is stated by the Plaintiff that since he has no other place to stay in Delhi and in view of the Order dated 11.02.2019 passed by this Court granting *status quo* regarding the title and possession of the Suit Property, the Defendants must be restrained from interfering with the peaceful possession of the ground floor in the said Suit Property, which is shown in red colour in the Site Plan.

14. A reply has been filed to the present Application by Defendant No.3 stating that the Plaintiff has been staying in Sweden for the last 45 years along with his wife and children. It is stated that the Plaintiff does not come to India anymore and thus, the instant Application is an abuse of the process of law, only meant to create trouble for the Defendants. It is further stated that *vide* the Will dated 20.02.1993, the ground floor of the Suit Property has been given to Defendant No.4, and therefore, the Plaintiff has no right



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whatsoever in the Suit Property.

15. Heard learned Counsel for the parties and perused the material on record.

16. It is the case of the Plaintiff that he is entitled to 1/7<sup>th</sup> share of the Suit Property and that the father of the Plaintiff has died intestate.

17. On 11.02.2019, *status quo* orders regarding the title and possession of the Suit Property were passed by this Court. The said Order has not been varied on the ground that the Plaintiff was never in possession of any portion of the Suit Property.

18. Material on record indicates that FIR No.282/2011 dated 22.11.2011, registered at Police Station, Lajpat Nagar for offences under Section 468 and 471 of the IPC was filed by the Plaintiff against Defendant No.2/Surender Nath Tara, (who has since passed away) and Defendant No.4/Pradeep Tara. A Charge-sheet was also filed and after leading evidence, the Trial Court *vide* Judgment dated 10.05.2024, convicted Defendant No.4/Pradeep Tara, stating that he used a forged No Objection Certificate to get the Suit Property mutated. Paragraph 25 to 27 of the said Judgment reads as under:-

*“25. It is noted that while there are many witnesses who deposed to the act that there is a will of Sh. DN Tara and according to the will the complainant was given Rs. 4 Lakhs, the probate of such will has never been produced before this court. The copy of the will is on record and accused has also produced a receipt of Rs. 4 Lakhs allegedly made by Sh. Deepak Tara in favour of accused person. But these facts nowhere prove that the said NOC was signed by Sh. Deepak Tara. Although the will and the receipt has not been proved by the defence, even if it is presumed that both these documents are true, it is entirely possible that the complainant could have refused to sign the NOC even*



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after receiving the payment. The defence produced three witnesses who deposed that the NOC was signed by the complainant, but they were never confronted with the document on record and they could not depose to the fact that the same document which was used in mutation was signed by the complainant. Even if the contentions of DWs is presumed to be true, it is possible that the said document which was signed by complainant allegedly was never used in mutation. Therefore, even if the story of defence is believed to be true without any proof, it does not create any doubt in the mind of the court about the story of prosecution.

**26. The prosecution has successfully proved that the document was forged in two aspects that are the signatures of the complainant and the stamps of the notary. It is highly improbable that the person who made this document did not have malafide intention as even the notarized stamps are forged on the affidavit. The additional fact that the notarized paper was allegedly purchased in year 2002 and was used in year 2004 gives more arsenal towards the guilt of accused person. No person with good intentions, that too in a contentious matter of property would dare to use forged and old stamps for making any affidavit. The argument that the accused had nothing to gain or lose has no legs as it is admitted fact that the issue was related to division of property between brothers and determination of rights qua the same property. It is also admitted that the complainant and the accused persons did not have very cordial relations. Therefore, the fact that a brother can forge documents to usurp the property of another is not unfathomable. The fact that the stamp paper was old, forged and signatures of the complainant were also forged has been proved by the prosecution. Thus, the intention of the accused person is inherent from the fact that the said document was totally forged and used**



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*in an unconventional manner. The argument of the accused that the said document was given to him his brother could have been believed if any evidence qua the same would have been led by the accused in his defence. But as the prosecution has successfully proved the material on record, the accused person was not able to create a defence or rebutt the same successfully.*

*27. In view of the above said reasons it is established beyond reasonable doubt that accused Pradeep Tara had used forged NOC knowing or having reason to believe same to be forged to get the property in question mutated. Therefore, accused Pradeep Tara S/o Late DN Tara is convicted for offence U/s 471 IPC read with section 465 IPC.”*

(emphasis supplied)

19. Material on record shows that Police complaints and *Kalandaras* have been given by the mother of the Plaintiff and Defendants stating that the Plaintiff has created nuisance. However, this Court cannot shut its eyes to the fact that the mother was staying with other brothers of the Plaintiff.

20. The Plaintiff lives in Sweden and comes occasionally to India. There is a *status quo* order regarding the title and possession of the Suit Property, but it is also important for this Court to take into account the fact that all the affidavits have been filed by some Power of Attorney holder of the Plaintiff and the possibility of the Plaintiff permitting somebody else to live in the Suit Property, who can create trouble for the persons already residing therein, cannot be ruled out.

21. The Site Plan attached with the Plaint shows that the room marked in red colour on the ground floor which is in the northern portion of the Suit Property, with a back road in Nizamuddin East, New Delhi, has a separate



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and independent entry along with a toilet, giving access to the Plaintiff. Therefore, no hindrance would be caused to the other occupants in the Suit Property.

22. The Plaintiff is, accordingly, permitted to access his room marked in red colour in the Site Plan. But, the Plaintiff cannot permit any other person to use his room when he is not in Delhi. Only when the Plaintiff is in Delhi along with his wife and children, they can have access to the room without any hindrance from the other Defendants.

23. With these observations, the application is disposed of.

**CS(OS) 73/2019, I.A. 1728/2019, I.A. 17387/2019, I.A. 30625/2024, I.A. 41818/2024**

24. List before the Joint Registrar on 24.02.2026.

**SUBRAMONIUM PRASAD, J**

**JANUARY 23, 2026**

Hsk/JR