



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

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*Reserved on: 06th February, 2024*

*Pronounced on: 14<sup>th</sup> May, 2024*

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**CS(OS) 1201/2012 & I.A. 4072/2019**

**MAHINDER SINGH**

S/o Late Shri Sewa Singh,  
R/o B-1/302, Nand Nagri,  
Delhi-110093

..... Plaintiff

Through: Mr. Ashwani Saxena, Advocate with  
plaintiff.

versus

1. **SMT. JASWANT KAUR (DECEASED)**

Wd/o Late Shri Sewa Singh

..... Defendant No. 1

2. **SHRI KULJEET SINGH**

S/o Late Shri Sewa Singh,  
R/o 1/2701, Gali No. 1, Ram Nagar,  
Loni Road, Delhi-110032

..... Defendant No. 2

3. **SMT. INDU BALA**

Wd/o Harjeet Singh,  
R/o 1/2687, Gali No. 1, Ram Nagar,  
Loni Road, Delhi-110032

..... Defendant No. 3

3 (a) **SHRI SAGAR**

S/o Harjeet Singh,

3 (b) **SMT. JAYOTSENA**

D/o Harjeet Singh,

3 (c) **SMT. CHETANA SINGH**

D/o Harjeet Singh,



All residence of R/o 1/2687, Gali No. 1,  
Ram Nagar, Loni Road, Delhi-110032

4. **SHRI GOPAL SINGH**

S/o Late Shri Sewa Singh,  
Shop No. 75, G.B. Road (5514),  
Frash Khana, Delhi-110006

..... Defendant No. 4

5. **SHRI HARPAL SINGH**

S/o Late Shri Sewa Singh,  
R/o 2701, Gali No. 1, Ram Nagar,  
Loni Road, Shahdara, Delhi-110032

..... Defendant No. 5

6. **SHRI HARDEV SINGH**

S/o Late Shri Sewa Singh,  
R/o 2701, Gali No. 2, Ram Nagar,  
Loni Road, Shahdara, Delhi-110032

..... Defendant No. 6

7 (a) **SHRI JASWINDER SINGH**

S/o Shri Balwinder Singh

7 (b) **MS. GURDEEP KAUR**

D/o Shri Balwinder Singh

7 (c) **MS. MINI**

D/o Shri Balwinder Singh

All residence of 1-C, 84, Namdhari Colony,  
Ramesh Nagar, New Delhi

..... Defendant No. 7

Through: Mr. Kuljeet Singh, Advocate for D-2.  
Mr. Pawanjit Singh Bindra, Sr.  
Advocate with Mr. Vivek Sharma,  
Advocate for D-3 to D-6.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**



## J U D G M E N T

### NEENA BANSAL KRISHNA, J.

#### I.A. 3715/2019 (u/Order XII Rule 6 r/w Section 151 of CPC, 1908)

1. By way of present application, under Order XII Rule 6, CPC, 1908 the applicants/defendant Nos. 3 to 6 seek Judgment/Decree in their favour and against the plaintiff (i.e. *dismissal of the plaint*) on the basis of the admissions made by the plaintiff.

2. It is submitted in the application that the plaintiff has filed the Suit for Partition, Possession and Permanent Injunction in respect of the following suit properties: -

- (i) *Property No. 8/12 and 8/19, Jawahar Nagar, Delhi measuring approximately 1 acre,*
- (ii) *Plot of 200 sq. yards in New Gobind Puri, Chander Nagar, Delhi-110051,*
- (iii) *Property No. 1/2701, Gali No. 1, Ram Nagar, Loni Road, Delhi-110032, measuring 200 sq. yards,*
- (iv) *Property No. 1/2702, Gali No. 1, Ram Nagar, Loni Road, Delhi-110032, measuring 200 sq. yards,*
- (v) *Property No. 1/2753, Gurudwar Wali Gali Ram Nagar, Loni Road, Delhi-110032,*
- (vi) *Property No. 1/2698, Gali No. 1, Ram Nagar, Loni Road, Delhi-110032,*
- (vii) *Two Shops (Commercial Property) No. 5514 and 5514-A, including roofs rights measuring 15/8 at Frash Khana, G.B. Road,*



*Delhi-110006,*

*(viii) Two Shops (Commercial Property) vide No. 785 and 786, measuring 8/12 at Frash Khana, G.B. Road, Delhi-110006,*

*(ix) Industrial Plot measuring 602 mtr. At E-9, S.M. Industry Area, G.T. Karnal Road, Delhi.*

3. **Defendant Nos. 1, 3 to 6** as well as **defendant No. 2/Kuljeet Singh** in their respective Written Statements have raised the *preliminary objection that the Oral Partition has already taken place between the legal heirs of Late Shri Sardar Sewa Singh during his lifetime vide Memorandum of Partition dated 18.07.1975*. During the course of admission/denial before the Court, the plaintiff has admitted the Memorandum of Partition dated 18.07.1975 and the Marriage Card which have been exhibited as Ex.D2/P1 and Ex.D2/P2 respectively.

4. In light of the admissions, it is evident that the plaintiff has admitted the factum of partition of the suit properties and therefore, the present Suit of the plaintiff be decided in favour of the defendants.

5. **The plaintiff in his Reply** to the present application, has denied that any Oral Partition had taken place between the legal heirs of Late Shri Sardar Sewa Singh during his lifetime. It is asserted that the plaintiff was a minor at the time of death of Shri Sardar Sewa Singh and has denied that the Memorandum of Partition dated 18.07.1975 was ever executed.

6. The plaintiff has explained that during the course of admission/denial on 17.12.2018, counsel for the plaintiff was not present and the plaintiff being an illiterate person who cannot read English, admitted the photocopy of the Memorandum of Partition dated 18.07.1975 in the Court. It is claimed that the counsel for the defendant Nos. 1, 3 to 6 took advantage of the



absence of the counsel for the plaintiff and got his signatures on the two documents.

7. It is asserted that the Memorandum of Partition dated 18.07.1975 had not been filed by the defendant Nos. 1, 3 to 6 though they had taken the defence of Oral Partition in their Written Statement.

8. Thus, there is no merit in the present application which is liable to be dismissed.

9. **Submissions heard.**

10. The plaintiff has filed the Suit for Partition, Possession and Permanent Injunction. According to the Plaint, Late Shri Sardar Sewa Singh was the owner of the suit properties, as mentioned above. He expired in the year 1977 and was survived by his wife, Smt. Jaswant Kaur (defendant No. 1) and five sons, namely, Shri Kuljeet Singh (defendant No. 2), Harjeet Singh (deceased, represented through defendant Nos.3, 3(a), 3(b) and 3(c)), Shri Gopal Singh (defendant No. 4), Harpal Singh (defendant No.5) and Shri Hardev Singh (defendant No. 6). Late Shri Sardar Sewa Singh was also survived by two minor children, namely, the plaintiff and one minor daughter, Lakhjeet Kaur and all the children of Late Shri Sardar Sewa Singh became the co-owners in the suit properties.

11. It is submitted that the plaintiff has been asking from the defendants for partition of the suit properties, but they have been giving assurances but have failed to partition the suit properties. Hence, the plaintiff has filed the present *Suit seeking partition* of the aforementioned suit properties.

12. **The defendant Nos. 1, 3 to 6 in their Written Statement** admitted that the aforesaid properties were owned by Late Shri Sardar Sewa Singh, who died in the year 1977 and was survived by his wife and six sons,



including the plaintiff and one daughter, Smt. Lakhjeet Kaur. However, a defence was set up that during his lifetime, Late Shri Sardar Sewa Singh divided the suit properties amongst his legal heirs and also gave the possession of their respective shares. They all removed the construction and raised fresh construction on the aforesaid properties which came to their respective share and started living separately. Some of the properties were sold and the sale proceeds disbursed and distributed equally amongst the legal heirs.

13. The defendant Nos. 1, 3 to 6 have explained the status of the aforementioned properties as under: -

S. No.	Details of Properties	Sold / Possession
1.	Property No. 8/12, and 8/19, Jawahar Nagar, Delhi, measuring approximately 1 Acre.	Sold in 1979 and sale proceed was distributed in legal heirs equally.
2.	A plot of 200 sq. yds. in New Gobind Puri, Chander Nagar, Delhi - 110051.	Sold in 1979 and sale proceed was distributed in legal heirs equally.
3.	Property No. 1/2701, Gali No. 1, Ram Nagar, Loni Road, Delhi - 110032, measuring 200 sq. yds.	Under the ownership of Hardev Singh. <b>Note:</b> Sh. Mahinder Singh executed a GPA dated 30.11.1983 in favour of Smt. Jaswant Kaur, in relation to his share in the property and also relinquishment deed dated 15.03.1990.
4.	Property No. 1/2702, Gali No. 1, Ram Nagar, Loni Road, Delhi - 110032, measuring 200 sq. yds.	50% share under the possession of Sh. Kuljeet Singh and remaining 50% share under the possession of Sh. Hardev Singh, however, the Sh. Kuljeet Singh



		has declined to mutate the share of the property in favour of Sh. Hardev Singh.
5.	Property No. 1/2753, Gurudware Wali Gali Ram Nagar, Loni Road, Delhi - 110032.	Under the ownership of Sh. Harpal Singh.
6.	Property No. 1/2698, Gali No. 1, Ram Nagar, Loni Road, Delhi - 110032, measuring 200 sq. yds.	50% share under the possession of Harjeet Singh and remaining 50% share under the possession of Sh. Gopal Singh.
7.	Two shops (Commercial Property) No. 5514 and 5514-A, including roof rights measuring 15/8 at Frash Khana, G.B. Road, Delhi-110006.	One shop No. 5514 is in possession of Sh. Gopal Singh and another shop No. 5514-A is in possession of Sh. Harjeet Singh.
8.	Two shops (Commercial Property) vide No.785 and 786, measuring 8/12 at Frash Khana, G.B. Road, Delhi-110006.	Rented properties, do not belong to the Sardar Sewa Singh.
9.	Industrial Plot measuring 602 Mtr. at E-9, S.M. Industry Area, G.T. Karnal Road, Delhi.	Sold in 1983 and sale proceed was distributed among the legal heirs equally.
10.	Plot No. 8, Balbir Nagar, Loni Road, Shahdara, Delhi, measuring area 240 sq. yds.	Sold by Sh. Kuljeet Singh in the year,1985-86, showing himself as owner of the property.

14. It is further asserted that the plaintiff executed a General Power of Attorney dated 03.11.1983 in the presence of Shri Kuljeet Singh, in favour of the defendant No. 1/Smt. Jaswant Kaur, his mother, to sell his share in the Property bearing No. 1/2701, Ram Nagar, Loni Road, Delhi-110032. In addition to executing the General Power of Attorney, he also executed a registered Relinquishment Deed dated 15.01.1990, relinquishing his share in favour of the defendant No. 1/Smt. Jaswant Kaur. The defendant No. 1 sold the share of the plaintiff to Shri Hardev Singh and sale proceeds had already



been received by the plaintiff who is left with no right, title and interest in the said property and has no *locus standi* to file the present Suit. It is, therefore, claimed that the Suit of the plaintiff is liable to be dismissed.

15. **The defendant No. 2/Kuljeet Singh in his Written Statement** has further asserted that pursuant to the oral partition which took place amongst Late Shri Sardar Sewa Singh and his legal heirs, the Memorandum of Partition dated 18.07.1975 was executed, which was accepted by all the legal heirs. All the parties to the present Suit have received and are in possession of their respective shares.

16. It was claimed that Suit of the plaintiff seeking Partition of the aforementioned properties is liable to be dismissed.

17. **From the pleadings of the parties**, it emerges that admittedly, Late Shri Sardar Sewa Singh was the owner of the aforementioned properties. The defendants have asserted that oral partition took place way back in 1975 and the properties already stand distributed by metes and bounds and each of the party is in possession of their respective share or have sold it.

18. Though the plaintiff had denied the factum of oral settlement or having executed a General Power of Attorney and Memorandum of Partition recording the oral partition in the pleadings, but the plaintiff in his admission/denial of the documents before the Court, has admitted the Memorandum of Partition dated 18.07.1975, Ex.D2/P1.

19. **The first aspect** which needs to be considered is that the plaintiff has asserted that he was misled to admitting the said document in the Court in the absence of his counsel. However, the plaintiff is a mature man of about 61 years and for him to claim that he had been misled to admitting the said document in the absence of his counsel, is an attempt to wriggle out of his





admission, which is clearly not tenable.

20. The second aspect is what is the legal implication of the admitted Memorandum of Partition dated 18.07.1975. The plaintiff has tried to evade the Memorandum of Partition dated 18.07.1975 by claiming that it does not bear his signatures, but it is his own averment that in the year 1975, when the said Memorandum of Partition was entered into between the parties, he was a minor and his interest was represented by his father, Late Shri Sardar Sewa Singh.

21. It is pertinent to mention here that the Property No. 1/2701, Gali No. 1, Ram Nagar, Loni Road, Delhi-110032, measuring 200 sq. yards. which came to the share of the plaintiff, has been relinquished by him in favour of his mother, defendant No. 1/Jaswant Kaur *vide* Relinquishment Deed 15.01.1990. Furthermore, the said property has already been sold.

22. Moreover, the defendants in their Written Statement have clearly made averments that the aforesaid suit properties as claimed by the plaintiff to be the inherited properties from Late Shri Sardar Sewa Singh, already stand sold or are in exclusive possession of the defendants, as has already been detailed above.

23. The plaintiff in his Complaint has not defined the status of any of the suit properties and has also failed to file any document whatsoever in support of his assertions that the suit properties at the time of filing of the present Suit, stood in the name of Late Shri Sardar Sewa Singh or in the joint name of the parties to the present Suit. Furthermore, the plaintiff in his Reply has simpliciter denied all the averments made in the Written Statement without clarifying about the persons in whose names, the suit properties stand today.

24. It is relevant to refer Order VI Rule 4 of the Code of Civil Procedure,



1908 to understand the issue at hand, which reads as under: -

**“Order VI — Pleadings Generally: -**

**4. Particulars to be given where necessary. —**

*In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading.”*

25. The very objective of pleadings is to clearly outline the point of dispute and the cause of action. The "rule of brevity," calls for the pleadings to be concise, clear, and limited to the interpretation that the pleader wishes to convey. Not only should the pleading be brief, but it also needs to be precise, accurate and certain and recitals in the plaint should comply with **Order VI Rule 4 of CPC, 1908** which mandates pleading of particulars, with dates and items and its succinct incorporation in the pleadings, specifically in cases in which such particulars would be necessary.

26. It has been explained in the cases of Sunny (Minor) & Anr. Vs. Raj Singh & Ors. (2015) 225 DLT 211, that Order VI Rule of CPC, 1908 provides that all necessary factual details of the cause of action must be clearly stated along with the exact details and particulars of the properties sought to be partitioned.

27. Making vague averments in the Plaint without any details or supported documents clearly reflect that the Plaint does not disclose the material particulars to sustain the claim of the plaintiff.

28. Furthermore, the evasive Reply in the Replication not explaining the execution of Power of Attorney dated 30.11.1983 and Relinquishment Deed dated 15.01.1990 in favour of the mother, is fairly an admission of the



averments made in the Written Statement. There is no explanation except the evasive denial about the sale of some of the properties and the equitable distribution of the amounts amongst the legal heirs. Such evasive denial without any details of ownership of properties, is no denial in the eyes of law.

29. The pleadings of the plaintiff and the admission of the Memorandum of Partition dated 18.07.1975, Ex. DW/P1 clearly prove that an Oral Partition by metes and bounds, has already taken place in the year 1975 and acted upon by the parties. Unfortunate as it is, the family matter that got settled way back in 1975, is sought to be reagitated by the plaintiff by way of present Suit filed in the year 2012. Significantly, his own mother, Smt. Jaswant Kaur who is defendant no.1, is also not supporting the plaintiff.

30. In view of the foregoing discussion, the present application under Order XII Rule 6 CPC is allowed and the Suit of the plaintiff is hereby dismissed along with pending applications, if any.

**(NEENA BANSAL KRISHNA)**  
**JUDGE**

**MAY 14, 2024**  
*S.Sharma*