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

Date of decision: 24th May, 2024

+ **CS(OS) 700/2022 & I.As. 18591/2022, 4127/2023, 7597/2023,
12268/2023, 5784/2024**

SEEMA DAYAL & ORS.

..... Plaintiffs

Through: Mr. Ankit Jain, Advocate with Mr. Siddhant Nath & Mr. Siddhant Asthana, Advocates (M: 9910870397).

versus

MALA MATHUR & ANR.

..... Defendants

Through: Mr. Raghav Narayan and Ms. Pallavi Dubey, Advocates for D-1 and 2 (M: 8860662882).

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

PRATHIBA M. SINGH, J.

1. This hearing has been done through hybrid mode.
2. The present suit for partition, possession and other reliefs has been filed by Mrs. Seema Dayal, Mrs. Poonam Mathur and Dr. Nidhi Prasad, all three who are daughters of late Dr. K.P Mathur.
3. The suit has been filed against Defendant Nos. 1 and 2, namely Mrs. Mala Mathur and Mr. Rajiv Mathur, who are the daughter and son-in-law of the deceased. Plaintiff Nos. 1 to 3 and Defendant No.1 are all sisters and daughters of Late Dr. K.P. Mathur. According to the Plaintiffs, Dr. K.P Mathur left behind a final Will dated 30th November, 2017 by which the



testator had divided his assets one fourth each to each of the daughters *i.e.*, Plaintiff Nos. 1 to 3 and Defendant No.1. The various properties and assets of the deceased testator-father are as under:-

“A. Immoveable property bearing description 77, Chitra Vihar, Delhi-110092 which is in the physical possession of Defendants along with their daughter.

B. PPF Account of the Late Dr. K.P. Mathur operated at State Bank of India wherein an amount of INR 70,45,000/approximately is lying undivided due to documents not signed by Defendant No.1.

*C. Pension Savings Bank Account, in the name of the Late Dr. K.P. Mathur Joint Holder of which is Defendant No.1 *i.e.*, Mrs. Mala Mathur, operated with Bank of India, bearing number 600710110001606 , also having 2 Fixed Deposits for a sum of INR 3,05,588/- and INR 1,54,197.57 also had a Pension remaining sum of INR . 2,11,336.93 therefore the total sum amounting to INR- 6,71,122/-. Details of the Bank branch are not known to our clients as the same was operated by Mrs. Mala Mathur, on behalf of Late Dr. K.P. Mathur and in control of Defendant No.1. The said sums were released after due insistence and follow-ups by Plaintiff No.1 being the named Executor of the Will. As per Defendant No 1, the Pension account has been closed by her*

D. Locker contents including family Jewelry and articles in the Locker operated at a Bank at New Delhi which is also in control of the Defendant No 1.

E. LIC Policy amounting to INR. 7,10,000/- received in one of the accounts known to Defendant No.1 and in the control of Defendant no.1. With respect to this amount the Plaintiffs have, on 4th Sept 2022, received 3 cheques totaling INR s 450,688.50 which translates to total amount received from LIC as Rs 6,00,918 a figure which has decreased for the reasons best known to Defendant No 1.



F. Fixed Deposits in the name of Late Dr. K.P. Mathur amounting to a sum of INR- 90,21,629/- and a Second Fixed Deposit of INR 1,01,244/- which were booked with Punjab National Bank, Khan Market branch, New Delhi which matured on 15.07.2022 and realized in account of Defendant No.1 being the nominee in the Fixed Deposit. The proceeds were distributed by issuing cheques in the name of Plaintiffs. (This has been done after repeated follow-ups and insistence of Plaintiffs).

G. PNB Savings Bank 0149000100092804 Joint holder Plaintiff No.1. A sum of INR 1,22,926.68 which was left, was distributed in 4 equal amounts by Plaintiff No.1. The disbursement was, however, delayed due to belated disclosures made by Defendant No.1 to Plaintiff No.1. This SB account has now been closed

H. Maruti Swift Car belonging to Dr. K.P. Mathur being used by Defendant No.1.

I. The late Dr. K.P. Mathur, in his lifetime, had received various awards due to his meritorious service to the government and collected artefacts which are In the Defendants' possession and control.

J. The Royalty received from the sale of the book written by Late Dr. K.P. Mathur under the title "The Unseen Indira Gandhi" in the year 2016. The Royalty proceeds of which are not known to Plaintiffs and are in the control and possession of Defendants."

4. The present suit was filed in the year 2022 seeking partition. There are various allegations which are made in the plaint and in the written statement by the parties against each other. At the outset Mr. Ankit Jain, Id. Counsel for the Plaintiffs on instructions, submits that his clients do not press any of the allegations against the Defendants if the Defendants also withdraw their allegations against the Plaintiffs.



5. In view of the withdrawal by the Plaintiffs of the allegations made, the Defendants also as a goodwill gesture withdraw their allegations against the Plaintiffs. The apprehension expressed by the Id. Counsel for the Defendants is that filing of this suit has resulted in an impression amongst friends and family, that aspersions have been casted by the Plaintiffs against the Defendants leading to enormous discontent for the Defendants. Id. Counsel for the Plaintiffs have taken instructions and submits that if the matter is resolved amicably, they are willing to host a family dinner and invite the Defendants and close relatives, family and friends for the same.
6. It is confirmed that parties have also given instructions to their respective Id. Counsel that they have no objection if a preliminary decree is passed in the above background declaring each of the sisters *i.e.*, Plaintiff Nos. 1,2 and 3 and Defendant No. 1 as the one fourth owner of the assets of their father, Late Dr. K.P. Mathur. Let the preliminary decree be drawn up to the said effect.
7. Considering the nature of the assets which are moveable and immovable properties, **Mr. Pankaj Kapoor, Advocate, (M: 9910032523)** who is present in Court, is appointed as a Local Commissioner to assist in partitioning of the assets. Insofar as the immovable property is concerned, the Local Commissioner shall inspect the property and shall explore partitioning the same by metes and bounds. After inspecting the property and after considering the various assets, let a proposal be placed by the Local Commissioner by way of a report in order to enable the Court to pass a decree.
8. The Local Commissioner may take all steps required in respect of



moveable assets for liquidating the same and dividing the same equally, including the possessions of the mother which are stated to be in the bank locker standing in the name of parents. Insofar as the PPF accounts are concerned, the Local Commissioner shall write to the State Bank of India to release the amounts equally one fourth each to the bank accounts of the four parties. The Plaintiff does not press for the relief of damages and rendition of account in terms of prayer g, k and l. The same are extracted hereinbelow:

“(g) A decree of rendition of accounts with respect to all accounts including but not limited to Pension Account maintained with Bank of India, LIC Policy, etc in the name of Late Dr. K.P Mathur from 01.04.2013 till closure of the said accounts;’

(k) Pass a decree against the Defendants with the direction to the Defendants to pay damages arising out of property bearing no. 77 Chitra Vihar, Delhi to the tune of Rs. 17,34,000/- calculated at the rate of Rs. 51,000/-per month from 09.12.2019 till 10.10.2022 along with the direction to pay the future damages at the rate of Rs. 51,000/- per month from 10.10.2022 till the disposal of the present suit.

(l) Pass a decree in the favor of the Plaintiffs against the defendants with the directions to the Defendants to pay sum of Rs. 23,62,826/- (3/ 4th share of the Plaintiffs) along with interest at the rate of 12% per annum therein, from the date of filing of the present suit till its disposal, to the Plaintiffs as the said sum has been wrongly misappropriated by the Defendants from the estate of Late Dr. K.P Mathur.”

9. The Local Commissioner shall visit the property bearing no. 77, Chitra Vihar, Delhi-110092 after giving notice to the Id. Counsel for the



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parties. The *status quo* insofar as the said property is concerned, shall be maintained till the final orders of the Court. ***I.A. 18591/2022*** is disposed of. All the other applications are also disposed of as not pressed.

10. List for receiving the report of the Local Commissioner on 28th August, 2024.

11. The Local Commissioner shall be paid a lump sum fee of Rs.2,00,000/- *i.e.* sum of Rs.50,000/- each by the daughters *i.e.* Plaintiff Nos. 1,2,3 and Defendant No.1.

12. The Local Commissioner may file a report by 1st August, 2024.

**PRATHIBA M. SINGH
JUDGE**

MAY 24, 2024
mr/ks