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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 736/2024

ANASTASIA MIRJANA JOJIC OBEROI & ORS.Plaintiffs

Through: Mr.Sandeep Sethi, Mr.Arun Kathpalia, Mr.Jayant Mehta, Sr.Advs. with Mr.Swapnil Gupta, Ms.Shivambika Sinha, Ms.Nimita Kaur, Mr.U.Banerjee, Mr.Aadil Singh Boparai, Ms.Srishti Khanna, Mr.Saurabh Dev Karan Singh, Mr.Gurveer Lally, Mr.Abhinav Mishra, Mr.Vaibhav Mendiratta, Advs. for P-1 and 3.

Mr.Arvind Nigam, Sr.Adv. with Mr.Aadil Singh Boparai, Mr.Swapnil Gupta, Ms.Shivambika Sinha, Ms.Nimita Kaul, Mr.U.Banerjee, Ms.Srishti Khanna, Mr.Saurabh Dev Karan Singh, Mr.Abhimanyu Arun Walia, Mr.Abhishek Dubey, Mr.Abhinav Mishra, Mr.Gurveer Lally, Mr.Vaibhav Mehdiratta, Advs. for P-2.

versus

RAJARAMAN SHANKAR & ORS.Defendants

Through: Mr.Shankh Sengupta, Mr.Ribi V.Garg, Mr.Shreyash Sharma, Advs. for D-1 to 3. Mr.Neeraj Kishan Kaul, Sr. Adv. and Mr.Amit Sibal, Sr.Adv. with Mr.Aseem Chaturvedi, Mr.Aakash Bajaj, Mr.Shivank Diddi, Ms.Preorna



Banerjee, Ms.Sania Abbasi,
Adv. for D-5-6.
Mr.Rajiv Nayar, Sr. Adv. with
Mr.Aman Gupta, Adv. for
D-7-8.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **12.09.2024**

I.A. 39246/2024 (exemption)

1. Allowed, subject to all just exceptions.

I.A. 39248/2024

2. Mr.Sandeep Sethi, the learned senior counsels for the plaintiffs submit that the plaintiffs have deposited the deficient court fee.
3. The application is accordingly disposed of as having become infructuous.

I.A. 39249/2024

4. This is an application seeking permission to file the lengthy list of dates and synopsis.
5. For the reasons stated in the application, the same is allowed.

I.A. 39250/2024

6. This is an application seeking permission to place on record the videographic evidence through CD.
7. For the reasons stated in the application, the same is allowed.

CS(OS) 736/2024

8. Issue summons in the Suit.
9. Summons are accepted by the respective counsels mentioned hereinabove.
10. As none is representing defendant nos.4 and 9, let summons of



this Suit be served on the defendant nos.4 and 9 through all modes, returnable before the learned Joint Registrar (Judicial) on 12th December, 2024.

11. The written statement(s) along with the affidavit of admission/denial of documents filed by the plaintiffs, shall be filed within the statutory period.
12. On receipt of the copy of the written statement(s), the plaintiffs shall be entitled to file the replication(s) thereto along with the affidavit of admission/denial of documents, if any filed by the defendants, within the statutory period.

I.A. 39247/2024

13. Issue notice.
14. Notice is accepted by the respective counsels appearing for the defendants.
15. Notice be also served on the defendant nos.4 and 9 through all modes, returnable before the learned Joint Registrar (Judicial) on 12th December, 2024.
16. Reply(ies) be filed within a period of four weeks. Rejoinder(s) be filed within three weeks thereafter.

I.A. 39245/2024

17. Issue notice to the defendants.
18. Notice is accepted by the respective counsels appearing for the defendants.
19. Reply(ies), if any, be filed within a period of four weeks. Rejoinder(s) be filed within three weeks thereafter.
20. List before the learned Joint Registrar (Judicial) on 12th



December, 2024.

21. The present Suit has been filed by the plaintiffs praying for the following reliefs:

“a) Declare that Plaintiffs are entitled to own, hold, enjoy and exercise all rights in 1600 A Class shares and 62,075 B Class shares of Defendant No. 7 and 100 A Class shares and 2,600 B Class shares of Defendant No. 8 and 46% capital contribution in Defendant No. 9 by virtue of the Will dated 25 October 2021 read with Codicil dated 27 August 2022 of Late Mr. PRS Oberoi;

b) Grant a decree of permanent injunction against Defendant Nos. 1 to 3 and Defendant Nos. 7 and 8 from registering any transfer or transmission of shares held by Late Mr. PRS Oberoi in Defendant Nos. 7 and 8, other than in favour of the legatees under the last Will dated 25 October 2021 read with Codicil dated 27 August 2022 of Late Mr. PRS Oberoi;

c) Grant a decree of mandatory injunction against Defendant Nos. 1 to 3 to hand over to Plaintiffs the share certificates for 1600 A Class shares and 62,075 B Class shares of Defendant No. 7 and 100 A Class shares and 2,600 B Class shares of Defendant No.8;

d) Declare that Plaintiff No.1 is entitled to 1,68,281 shares of Defendant No. 4 owned by Late Mr. PRS Oberoi by virtue of the last Will dated 25 October 2021 read with Codicil dated 27 August 2022 of Late Mr. PRS Oberoi;

e) Grant a permanent injunction against Defendant No. 4 from registering any transfer or transmission of the shares held by Late Mr. PRS Oberoi in Defendant No.4 at the behest of the Defendant Nos. 1 to 3, other than in favour of the legatees under the last Will dated 25 October 2021 read with Codicil dated 27 August 2022 of Late Mr. PRS Oberoi;

f) Grant a decree of mandatory injunction against Defendant Nos. 1 to 3 to transfer



1,68,281 shares of Defendant No. 4 in favour of Plaintiff No. 1 from the Demat Account (Client ID 10278025) of Late Mr. PRS Oberoi maintained with ICICI Bank or such other account maintained by Defendant No. 1 along with all dividends accrued thereon;

g) Declare that Defendant No. 5 and Defendant No. 6 have no right, title, interest or claim in the estate of Late Mr. PRS Oberoi;

h) Grant a decree of permanent injunction restraining Defendant Nos. 1 to 9 from interfering with Plaintiffs' right to peaceful enjoyment of the interest in Defendant No.4, Defendant No.7, Defendant No. 8 and Defendant No. 9 bequeathed to them under the Will dated 25 October 2021 read with Codicil dated 27 August 2022 of Late Mr. PRS Oberoi and all rights arising from such shares and interest;

i) Declare that the immovable property situated in "Villa Aashiana," comprising land bearing Khasra Number 160/4 situated at village Bijwasan, Kapashera, Delhi, measuring 11.99 acres and delineated and marked "A" in plan annexed in Schedule 1 to the Will dated 25 October 2021 together with all buildings and other fixed improvements situated thereon along with all contents of the said "Villa Aashiana" thereof stands vested in favour of the Plaintiffs as trustees of the Aashiana Trust by virtue of the Will dated 25 October 2021 read with Codicil dated 27 August 2022 of Late Mr. PRS Oberoi;

j) Grant a decree of mandatory injunction against Defendant Nos. 1 to 3 and 5 to 6 to handover to Plaintiffs the title documents of land and building situated at Khasra Number 160/4 located in the village of Bijwasan, Kapashera, Delhi, measuring 11.99 acres and delineated and marked "A" in plan annexed in Schedule 1 to the Will dated 25 October 2021 of Late Mr. PRS Oberoi;

k) Declare that Plaintiffs are entitled to 1/8 of Khewat No. 26 1/6 part of Khewat no. 21, 1/2 of Khewat No. 183, and 1/8 part of Khewat No.



30 situated at Mohammadpur Gurjar Village, Tehsil Sohna, District Gurugram by virtue of the Will dated 25 October 2021 read with Codicil dated 27 August 2022 of Late Mr. PRS Oberoi;

l) Grant a decree of permanent injunction restraining Defendant Nos. 1 to 9 from interfering with Plaintiffs' right to peaceful enjoyment of the immovable properties being land and building situated at Khasra Number 160/4 located in the village of Bijwasan, Kapashera, Delhi, measuring 11.99 acres and delineated and marked "A" in plan annexed in Schedule 1 to the Will dated 25 October 2021 of Late Mr. PRS Oberoi and 1/8 of Khewat No. 26 1/6 part of Khewat no. 21, 1/2 of Khewat No. 183, and 1/8 part of Khewat No. 30 situated at Mohammadpur Gurjar Village, Tehsil Sohna, District Gurugram and restrain them from dealing with said properties in any manner whatsoever;

m) Grant mandatory injunction against Defendant Nos. 1 to 3 and 5 to 6 to disclose on oath details of all assets of Late Mr. PRS Oberoi, including the land situated in Kanha, Madhya Pradesh;

n) Grant a decree of permanent injunction against Defendant Nos. 1 to 3 and Defendant Nos. 5 and 6 from interfering with Plaintiffs' right to peaceful enjoyment of the properties disclosed as aforesaid;

o) Declare that, in the event any other assets of Late Mr. PRS Oberoi are discovered, Plaintiffs are entitled to 50% of such residuary estate of Late Mr. PRS Oberoi;

p) Grant a decree of damages against Defendant No. 1 to Defendant No.3 to the tune of INR 2,00,00,000/- assessed tentatively as damage caused to the Plaintiffs;"

22. At the outset, this Court had questioned the learned senior counsel appearing for the plaintiffs, as to whether the present Suit is maintainable specially in view of the challenge of the



defendant nos.5 and 6 to the alleged Will dated 25.10.2021 (hereinafter referred to as the 'Will') read with Codicil dated 27.08.2022 (hereinafter referred to as the 'Codicil') of Late Sh. Prithvi Raj Singh Oberoi (hereinafter referred to as the 'Testator') propounded by the plaintiffs, or whether the appropriate remedy of the plaintiffs would be to seek probate of the Will/Letters of Administration in accordance with Sections 276/278 of the Indian Succession Act, 1925 (in short, 'ISA').

23. The learned senior counsel for the plaintiffs, placing reliance on the Judgments of the Supreme Court in *Kanta Yadav v. Om Prakash Yadav & Ors.*, (2020) 14 SCC 102; *Ravinder Nath Agarwal v. Yogender Nath Agarwal & Ors.*, (2021) 15 SCC 282; and of this Court in *Om Prakash Yadav & Anr. v. Kanta Yadav & Ors.*, 2017 SCC OnLine Del 6961, submits that in view of Section 57 of the ISA, there is no compulsion to seek probate of a Will or the Letter of Administration in Delhi for a Hindu, where such Will has been executed at Delhi and where the immovable properties to which it relates, do not fall within the areas as prescribed in Section 57 of the ISA.
24. The learned senior counsel appearing for the defendant nos.5 and 6, however, submits that as there is a serious challenge to the Will dated 25.10.2021 read with Codicil dated 27.08.2022 propounded by the plaintiffs, and also since the defendant nos.5 and 6 are also propounding a Will dated 20.03.1992 of the Testator, the proper remedy of the plaintiffs would be to seek a probate/Letter of Administration with respect to the Will and



Codicil propounded by them.

25. He submits that the Judgments cited by the learned senior counsels for the plaintiffs are distinguishable on the facts of the present case as in the said Judgments, the parties propounding the Will were the defendants in the respective Suits and the said Judgments are restricted to the proposition that the probate of a Will is not required in Delhi. He further submits that in the said Judgments, there were also no competing Wills as is the case in the present Suit.
26. *Prima facie*, I am in agreement with the submission made by the learned senior counsel for the plaintiffs, that in view of Section 213(2) of the ISA and the Judgments cited by the learned senior counsels for the plaintiffs, a probate of a Will or Letter of Administration in respect of a Will is not compulsory to be obtained where conditions stipulated in Section 57 of the ISA are not attracted.
27. In the present case, apart from contending that the Will dated 25.10.2021 read with Codicil dated 27.08.2022 are the last and final Will/Codicil of the Testator, the plaintiffs have also asserted rights in the shares of the defendant nos.7 and 8 held by the Testator. On the other hand, from the correspondence of the defendant nos. 5 and 6, and even from the submissions made by the learned senior counsel for the defendant nos. 5 and 6, it is apparent that the defendant nos.5 and 6 are not only contesting the genuineness of the Will/Codicil propounded by the plaintiffs, but are also contending that the Testator did not have any right,



- title or interest in the shares held by him in defendant nos.7 and 8. These issues cannot be determined by a probate Court and would necessarily have to be determined by a Civil Court.
28. Presently, therefore, I do not find any merit in the objection raised by the defendant nos. 5 and 6 to the maintainability of the present Suit. This issue would, however, remain open to be determined once the defendant no.5 and 6 have filed their written statement(s) to the Suit.
29. Coming to the merits of the case, the learned senior counsel for the plaintiffs have taken me through the Will dated 25.10.2021, and specifically Clauses 6 and 8 of the said Will. The same are reproduced hereinbelow:

*“6. I GIVE DEVISE AND BEQUEATH
the Holding Company Shares as follows:*

*6.1 Subject to clause 6.3 to transfer
absolutely the A Class Shares and the
income from those Shares to:*

*6.1.1 As to one-half to my daughter
NATASHA DEVI OBEROI provided
she be living at my death and if she
predeceases me to such of the children
of **NATASHA DEVI OBEROI** (being
her natural issue) living at the time of
my demise and if more than one as
tenants in common in equal shares;*

*6.1.2 As to one-half to the trustees for
the time being of the **AO TRUST** to
hold such Shares upon the trusts of the
said **AO TRUST** as varied from time to
time (whether before or after my death).*

*6.2 Subject to clause 6.3, to transfer
absolutely the B Class Shares and the
income from those Shares to:*

*6.2.1 As to one-half to my
daughter **NATASHA DEVI OBEROI**
provided she be living at my death and if*



*she predeceases me to such of the children of **NATASHA DEVI OBEROI** (being her natural issue) living at the time of my demised and if more than one as tenants in common in equal shares;*

*6.2.2 As to one-half to the trustees for the time being of the **AO TRUST** to hold such Shares upon the trusts of the said **AO TRUST** as varied from time to time (whether before or after my death).*

*6.3 If at the time of the proposed absolute transfer of the A Class Shares and the B Class Shares required to give effect to any bequest under clause 6.1 or clause 6.2 the provisions of the Articles of Association or any other constituent document of any of the Holding Companies that have issued the A Class Shares and the B Class Shares restricts the transfer of the A Class Shares and the B Class Shares required to give effect to a bequest under clause 6.1 or clause 6.2 without those shares first being offered to the other shareholders of the relevant Holding Company then such of the A Class Shares and the B Class Shares as cannot be transferred to give effect to a bequest under clause 6.1 or clause 6.2 without first being offered as aforesaid shall be offered by my Trustees to the other shareholders of the relevant Holding Company or Holding Companies concerned in accordance with the Articles of Association or other constituent documents of the Holding Company or Holding Companies concerned and in the event that shareholders in the relevant Holding Company or Holding Companies concerned exercise those rights of pre-emption in respect of the shares so offered then my Trustees shall stand possessed of the proceeds of such sale for the person or persons who would have been entitled to receive such shares under clause 6.1 or clause 6.2 as if those restrictions did not exist **PROVIDED ALWAYS** that if my Trustees are required to make any offer to the other shareholders of the A Class Shares and B*



Class Shares they may in their absolute and unfettered discretion determine to make an offer of other A Class Shares and B Class Shares to the other shareholders in the Holding Companies at the same time and similarly in the event that the other shareholders of that relevant Holding Company or Holding Companies agree to purchase such A Class Shares and B Class Shares so offered then my Trustees shall stand possessed of the proceeds of such sale upon trust for the person or persons who would have been entitled to receive such shares under clause 6.1 or clause 6.2.

XXXXXX

*“8. **I GIVE DEVISE AND BEQUEATH** the whole of my right, title, estate, and interest in or to the immovable property known as “Villa Ashiana” comprising Land bearing Khasra Number 160/4 situated at Village Bijwasan, Kapashera, Delhi and measuring approximately 11.99 Acres more particularly delineated and marked “A” in the plan annexed in Schedule 1 (but excluding the Land bearing Khasra Number 160/5 situated at village Bijwasan, Kapashera, Delhi and measuring approximately 3.39 Acres more particularly delineated and marked “F” in the plan annexed in Schedule 1) together with all buildings and other fixed improvements and my household furniture, fittings, carpets, paintings, sculptures, other works of art and other chattels (excluding my personal effects as determined by my Trustees in their absolute discretion) in and about the dwelling houses situate on the said property **UPON TRUST** to pay distribute or transfer that property to the trustees for the time being of the **AASHIANA TRUST** to hold such property upon the trusts of the said **AASHIANA TRUST** and for the purposes of this clause 8 the Land and subject of this clause 8 does not include the Land the subject clause 9.”*



30. He has contended that under the Will, the plaintiff no. 2 is also a beneficiary and, therefore, a necessary party in the present Suit. The Plaintiff no.1 is not only a beneficiary under the Will but is also a trustee in the AO Trust, to which the shares held by the Testator in defendant nos. 7 and 8 are to be transferred. She along with the plaintiff nos. 2 and 3 is also the Trustee of the Ashiana Trust, to which the property at Bijwasan, Kapashera mentioned in paragraph 8 of the Will has been bequeathed by the Testator. She is also the sole beneficiary of these Trusts.
31. He has further taken me through various correspondences that have been exchanged by the plaintiffs with the other trustees / executors appointed by the Testator under the said Will, that is, defendant nos. 1 to 3, and the correspondence which has been in turn exchanged by the defendant no. 2, as a trustee /executor of the Will, with defendant nos. 7 and 8. He contends that the said correspondence would reveal that instead of exploring the option of transfer of the shares held by the Testator in defendant nos.7 and 8 to the plaintiff no.1, the executors, at the behest of defendant nos.5 and 6, are exploring the option of selling those shares to defendant nos.5 and 6 at a price that would be determined by them. This, according to the learned senior counsel for the plaintiffs, would defeat the rights of the plaintiff no. 1, the AO Trust, and the Ashiana Trust, who were named to be the ultimate beneficiaries under the subject Will.
32. He submits that as far as the challenge of the defendant nos.5 and 6 to the subject Will is concerned, the same has come only as an



afterthought. Referring to an e-mail dated 21.11.2023 addressed by the defendant no.5 to *inter alia* the plaintiff no.1 in response to an e-mail of defendant no. 2 informing him of the subject Will, he submits that the defendant no. 5 never raised any objection to the Will nor contended that the Testator did not hold the shares in defendant nos. 7 and 8 in his own rights. He submits that, in fact, it is only by an e-mail dated 04.12.2023, that the defendant nos.5, through his counsel, for the first time made a vague challenge to the subject Will and the Codicil, and also stated that it does not “*reflect the correct sentiments and wishes of late Mr. M.S. Oberoi and his understanding from Mr. P.R.S. Oberoi.*”; defendant no. 5 also stated that the Will is unregistered and has discrepancies in relation to “*wishes of late Mr. M.S. Oberoi and Mr. P.R.S. Oberoi, that he had conveyed while he was alive.*”

33. He submits that now the defendant no. 5 has propounded a Will dated 20.03.1992 and a purported oral understanding arrived at between Shri Rai Bahadur M.S. Oberoi, the Testator, and the defendant nos.5 and 6, to contend that the shares were in fact held by the Testator in trust for the defendant nos.5 and 6 and not as their rightful owner.
34. Placing reliance on Section 89 of the Companies Act, 2013 (in short, ‘Companies Act’), he submits that such claim of the defendant nos. 5 and 6 would, in fact, be barred in law. He prays that the *status quo* with respect to the shares of the Testator in defendant nos. 7 and 8 be maintained while the defendants file their written statement(s)/reply(ies).



35. On the other hand, the learned senior counsel appearing for the defendant nos. 5 and 6, contend that apart from the Suit not being maintainable, the defendant no. 5, in terms of the settlement that had been arrived at between the Testator and his father-Shri Rai Bahadur MS Oberoi, the shares of defendant nos. 7 and 8 were held by the Testator in trust for the defendant nos. 5 and 6 and were to devolve upon the death of the Testator on the defendant nos. 5 and 6. Further, to give effect to such an oral understanding, the Testator also executed a Will dated 20.03.1992 in terms thereof.
36. They further contend that in terms of Clause 7 of the Articles of Association of defendant no.7 and Clause 31 of the Articles of Association of the defendant no. 8, there is a restriction on the transfer of the shares except before offering the same to the existing shareholders. The only exception carved out is where *inter alia*, the transfer of shares is to a blood relative of the deceased shareholder or to an existing member. They submit that as by the subject Will, the Testator sought to transfer the shares held by him in defendant nos.7 and 8 to a Trust, the same cannot be given effect to without first giving a right of pre-emption to the defendant nos. 5 and 6, who are the other shareholders in defendant nos. 7 and 8.
37. Without prejudice to the rights and contentions of the defendant nos. 5 and 6, they submit that in terms of Clause 6.3 of the subject Will, even the Testator had said that the bequeath will be in accordance with the Articles of Association of defendant no. 7



- and 8. They submit that, therefore, the intent of the Testator could never have been that the shares held by him will be transferred to a Trust contrary to the Articles of the Association of defendant nos. 7 and 8.
38. They submit that the intent of the plaintiffs is only to somehow stall the functioning of the companies, that is, defendant no. 4, defendant no. 7, and defendant no. 8.
39. The learned counsel appearing for defendant nos. 1 to 3, on the other hand, submits that the said defendants have acted strictly in accordance with the subject Will. Drawing the attention of this Court to an e-mail dated 23.07.2024, he submits that as the shares held by the Testator in defendant nos.7 and 8 could not be transferred to a Trust, an opinion was taken from legal experts. It was also shared with the plaintiff no. 1 and her views were sought on the same. She, however, insisted on acting alone and contrary to the legal advice.
40. Placing reliance on Clause 13 of the subject Will, he submits that in terms thereof, decision of majority of trustees is final. In the present case, the majority of trustees have decided that the shares cannot be transferred in favour of a Trust, given the restrictions placed by the Articles of Association of defendant nos. 7 and 8.
41. He also places reliance on Clause 16, Clause 17 and Clause 20 of the subject Will to say that the trustees have a complete control over the assets and properties bequeathed under the Will and are also entitled to dispose of the same to protect the interest of the beneficiaries and to maintain the assets.



42. He further submits that as far as the defendant no. 3 is concerned, as she is not challenging the decision of the other Trustees appointed under the Will, there cannot be an injunction passed as against dealing with the shares bequeathed to her.
43. The learned senior counsel for the plaintiffs submits that Clause 7 of the Articles of Association of the defendant no.7 and equally Clause 31 of the Articles of Association of the defendant no. 8, in no manner prohibit the transmission of shares on the death of shareholder to a trust, which even otherwise is not a legal entity. He submits that therefore, the contention of the defendants that the shares cannot be transmitted in terms of the Will, is fallacious.
44. I have considered the submissions made by the learned senior counsels appearing for the respective parties.
45. As would be evident from the above, the plaintiffs are propounding a Will dated 25.10.2021 read with Codicil dated 27.08.2022 of the Testator. In terms of the said Will, *inter alia*, half of the shares held by the Testator in defendant nos. 7 and 8 were to devolve on defendant no.3 and on AO Trust, of which the plaintiff no.1 is a trustee and the sole beneficiary. Plaintiff no.1 claims that half of the shares were, therefore, bequeathed by the Testator in her favour though indirectly through the Trust.
46. It is also evident that the defendant nos.5 and 6 have challenged the validity of the said Will and have also propounded an earlier Will of the testator dated 20.03.1992. They have also set up a case of an oral family settlement between the Testator and his



father. They have submitted that the oral family settlement is, in fact, reflected in a series of documents which purport to create a constructive Trust of the shares held by the Testator in favour of defendant nos. 5 and 6.

47. These issues would have to be determined once the defendants file their response to the Suit and to the application along with the documents on which they rely upon.
48. The effect of Clause 7 of the Articles of Association of the defendant no.7, and equally Clause 31 of the Articles of Association of the defendant no. 8, on the bequest, shall also need consideration once, at least, *prima facie* opinion is formed by this Court on the Will/Codicil propounded by the plaintiffs and/or the Will/Oral family settlement propounded by the defendant nos. 5 and 6.
49. Presently, the subject matter of the Suit needs protection.
50. As far as the submission of the learned counsel for the defendant nos. 1 to 3 that the defendant no. 3 has accepted the decision of the remaining Trustees, it need only be noted that as the Will is disputed by the defendant nos. 5 and 6, the shares in defendant nos. 7 and 8 cannot be transferred even in her favour till the said challenge is at least *prima facie* decided by this Court. The defendant nos. 5 and 6 cannot give a partial acceptance to the Will as far as the bequest to defendant no. 3 is concerned, while challenging the remaining bequest under the same Will.
51. For the present, there is sufficient material placed on record by the plaintiffs to demonstrate the *prima facie* reliability of the Will



- and the Codicil of the Testator propounded by them.
52. For the above reasons, I find that the plaintiffs have been able to make out a good *prima facie* case in their favour. The balance of convenience is also in favour of the plaintiffs and against the defendants. The plaintiffs are likely to suffer grave irreparable harm in case the subject matter of the Suit, that is the shares and properties, are alienated during the pendency of the Suit and before the defendants file their response and the same is considered by this Court.
53. At the same time, the learned senior counsel appearing for defendant nos. 7 and 8 has submitted that there are certain statutory compliances which are required to be completed by defendant nos. 7 and 8, and that the same cannot be completed in absence of a shareholder holding Class-A shares in the said companies. He has suggested that one Class-A share of defendant nos. 7 and 8 can, without prejudice rights and contentions of the parties, be transferred to the defendant no.1, who shall exercise the right in such share only for purposes of attending the meeting(s) and to ensure that the statutory compliances and clearances are made.
54. Having considered the above submissions, in my view, the interest of justice and the interest of plaintiffs can be protected by restraining the defendant nos.1 to 3, and defendant nos.4, 7 and 8 from transferring or transmitting any shares in defendant no.4, defendant no. 7, and/or defendant no. 8 held by the Testator, except one Class-A share in defendant nos. 7 and 8 each to the



defendant no.1. The defendant no.1, on such transmission of the single Class-A share, shall exercise his voting right only for purposes of ensuring statutory compliances and filing of statutory reports. It is clarified that for other agenda items, the defendant no.1 shall not be deemed to be present in such general meetings while exercising his rights as a holder of Class-A share.

55. The defendant nos.1 to 3 and defendant nos.5 and 6 are also restrained from interfering with the possession and enjoyment of plaintiff no. 1 and plaintiff no. 2 of land and building situated at Khasra no.160/4 located in the Village of Bijwasan, Kapashera, Delhi.
56. *Ad interim* injunction in terms of prayers (d) and (f) is also granted.
57. Needless to state, any and all observations made hereinabove are only *prima facie* in nature and have been made for the purposes of passing this *ad interim* Order. They shall not be considered as a final opinion of this Court or, in any manner, affect the rights or contentions of the parties at a later stage.
58. Compliance of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908, as far as the unrepresented defendants are concerned, be made within a week from today.

NAVIN CHAWLA, J

SEPTEMBER 12, 2024
RN/VS

[Click here to check corrigendum, if any](#)