

ITEM NO.27

COURT NO.5

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 1516/2020 in SLP(C) No. 14707/2017

(Arising out of impugned final judgment and order dated 23-04-2018 in SLP(C) No. 14707/2017 passed by the Supreme Court Of India)

SEEMA SARIN &amp; ANR.

Petitioner(s)

VERSUS

SUDESH CHANDER TALWAR &amp; ORS.

Respondent(s)

(IA No. 74910/2020 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 70066/2023 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 57630/2023 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 61526/2021 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 96028/2023 - CLARIFICATION/DIRECTION  
 IA No. 17415/2023 - CLARIFICATION/DIRECTION  
 IA No. 74911/2020 - EXEMPTION FROM FILING AFFIDAVIT  
 IA No. 61529/2021 - EXEMPTION FROM FILING AFFIDAVIT  
 IA No. 146720/2023 - INTERLOCUTARY APPLICATION  
 IA No. 46092/2023 - PERMISSION TO FILE ADDITIONAL  
 DOCUMENTS/FACTS/ANNEXURES  
 IA No. 162961/2022 - PERMISSION TO FILE ADDITIONAL  
 DOCUMENTS/FACTS/ANNEXURES)

Date : 19-03-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE  
 HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) Mr. Nikhil Jain, AOR

Mr. Shyamal Kumar, AOR  
 Mr. Jaspreet Singh Rai, Adv.  
 Mr. Rohit Nagpal, Adv.  
 Mrs. Sukhdeep Kaur Rai, Adv.  
 Mrs. Vasudha Gupta, Adv.

For Respondent(s) Mr. Jayant Bhushan, Sr. Adv.  
 M/S. Khaitan & Co., AOR  
 Mr. Ajay Bhargava, Adv.  
 Ms. Trishala Trivedi, Adv.  
 Ms. Phalguni Nigam, Adv.

Mr. Parag Tripathy, Adv.\*  
Mr. Rishabh Kapur, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Heard Mr. Bhushan, learned senior counsel appearing on behalf of respondent No.1 and Mr. Tripathi, learned senior counsel appearing on behalf of respondents No. 4(i) to (iii).

The origin of the present proceeding lies in a testamentary instrument executed by the predecessor-in-interest of the respondents, late Bhagwati Talwar, the testatrix. Probate has been obtained from the Calcutta High Court in respect thereof. That question is not in issue in these proceedings. The main petition, in substance, stands disposed of, and the dispute with which the aforesaid respondents are concerned now relate to their subsisting share or interest over a building located at 6, Kautilya Marg, New Delhi. This building forms part of the assets in respect of which the will was executed by the testatrix and for which, as we have already indicated, probate has been granted by the High Court at Calcutta. Mr. Bhushan's client is the executor of the Will. The dispute giving rise to the present special leave petition was between the daughter of the testatrix and/or their descendants and her two sons and/or their descendants.

Now, the parties who are contesting before us are the descendants of the deceased son on one side and the surviving son of the testatrix, on the other, laying a claim over the said building. It is not in dispute that it is an undivided property in which the respective clients of Mr. Bhushan and Mr. Tripathi have equal undivided share. Mr. Bhushan's submission is that his client, as executor, ought to have possession of the entire building and then it would be for him to apportion the respective allocation. It is also Mr. Bhushan's submission that Mr. Tripathi's client has no right to alienate the subject-property or any part thereof.

These issues were not the subject matter of the main petition and have to be adjudicated in an appropriate proceeding that may be instituted by either of the two competing sides. Hence, we refrain from making any comment on entitlement of any of the respondents, who are present before us, as regards any specific part of the said property.

Mr. Tripathi's submission is that his clients are not in the process of alienation or parting with possession of any part of the property in favour of any third party. He, however, brought to the notice of this Court that his client(s) has already entered into an agreement for sale. It would be open to Mr.

Bhushan's client to assail the legality of such agreement before the appropriate forum.

The Registrar (Admn.) of this Court is discharged from holding constructive possession of the subject-property.

The present miscellaneous application is, accordingly, disposed of.

Pending application(s), if any, shall stand disposed of.

(SNEHA DAS)  
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)  
ASSISTANT REGISTRAR

\* Appearance not given.