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

+ CS(OS) 2728/2012

SABINA SONI NEE DHINDSA Plaintiff
Through: Mr. Rishi Agarwala, Advocate with
Ms. Misha Mehta and Ms. Gunika Gupta,
Advocates alongwith plaintiff in person.

versus

GURDEV SINGH DHINDSA & ORS Defendants
Through: Ms. Diya Kapur, Advocate with
Ms. Manjira Dasgputa, Advocate for D-1 and
D-2 with D-1 and D-2 in person.
None for D-3

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

ORDER
% 19.11.2015

I.A. 22828/2015 (by the plaintiff u/O I Rule 10 CPC)

1. This application has been filed by the plaintiff praying *inter alia* that she may be permitted to delete the name of the defendant No.3 (brother) from the array of the parties.
2. Counsels for the plaintiff and the defendants No.1 and 2 state that the plaintiff and the defendant No.3 are siblings and children of the defendants No.1 and 2. The plaintiff has instituted the accompanying suit for permanent and mandatory injunction and for rendition of accounts in respect of premises bearing No.40, Golf Links, New Delhi, and some other valuables and movable items.

3. Counsel for the plaintiff clarifies that the relief in the present suit is mainly directed against the defendants No.1 and 2 and the defendant No.3 had to be impleaded in the suit as he was a necessary and proper party in the suit proceedings. After the pleadings were completed and the suit was at the stage of recording of evidence, vide order dated 03.03.2015, the plaintiff and the defendants No.1 and 2 were referred to mediation. In the course of the mediation, the said parties have arrived at an out of court settlement as recorded in I.A. 22829/2015. It is in this background that the plaintiff seeks deletion of the name of the defendant No.3 from the array of the defendants as she does not wish to seek any relief against him in this suit.

4. On the last date, when the present application was listed before the Court on 30.10.2015, Mr. Mirnal K. Sharma, Advocate had entered appearance for the defendant No.3 and had stated that he had not been furnished a copy of the present application and I.A. 22829/2015. Counsel for the plaintiff was directed to furnish copies of the said applications to the other side in the course of the day and the defendant No.3 was directed to file a reply to the present application with a copy to the other side.

5. The Court is informed by the counsel for the plaintiff that copies of the applications were duly furnished to the counsel for the defendant No.3 on 30.10.2015 itself. However, replies thereto have not been filed and nor is the defendant No.3 or his counsel present today. It is therefore assumed that the said defendant does not wish to oppose the present application.

6. For the reasons stated in the application, the same is allowed. The defendant No.3 is directed to be deleted from the array of the defendants. Amended memo of parties shall be filed within two days with a copy to the other side.

7. The application is disposed of.

I.A. 22829/2015 (joint application u/O XXIII R 3 CPC)

1. The present application has been filed by the plaintiff and defendants No.1 and 2, daughter and parents stating *inter alia* that during the pendency of the present suit, the parties had been referred to mediation and they have arrived at an out of court settlement, reduced into writing by virtue of the document entitled, "Settlement Terms" dated 15.10.2015, enclosed with the present application and marked as Annexure A.

2. A perusal of the said document reveals that the settlement

arrived at between the plaintiff and the defendants No.1 and 2 is not only in respect of the suit premises but also deals with securities/shares/mutual funds/units/dividends etc. and further, the plaintiff has undertaken to pay a sum of Rs.1.5 crores to the defendants No.1 and 2 as detailed in the said document. Both the parties state that their clients shall abide by the terms and conditions recorded in the "Settlement Terms" dated 15.10.2015 and the suit may be decreed accordingly.

3. The Court has pursued the present application. The same has been signed by the plaintiff, defendants No.1 and 2 and their respective counsels and is duly supported by the affidavits of the signatories to the application. In view of the fact that a settlement has been arrived at between family members and the parties, who are present in Court, confirm having arrived at the aforesaid settlement of their own free will and volition and without any undue influence or coercion from any quarters, there appears no legal impediment in accepting the said settlement. The document dated 15.10.2015 is taken on record. The parties shall remain bound by the terms and conditions recorded therein.

4. The suit is decreed in terms of the settlement arrived at and recorded in the "Settlement Terms" dated 15.10.2015, while leaving the parties to bear their own expenses. Decree sheet be drawn accordingly.

5. The suit is disposed of alongwith the pending application.

HIMA KOHLI, J

NOVEMBER 19, 2015

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