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

+ CS(OS) 2458/2009

KANWAL NAIN MANIKTAHLA

..... Plaintiff

Through: Mr. Udaibir Singh Kochar, Advocate
with plaintiff in person.

versus

OM PRAKASH ARORA AND OTHERS F+

..... Defendants

Through: Mr. Tarun Diwan, Advocate with
Ms. Kirti K. Mehta, Advocate for D-1 and D-2
with D-1 and D-2 in person.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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23.04.2015

1. On the last date of hearing, counsels for the parties had sought further time to report settlement on the ground that the plaintiff, who ordinarily lives abroad, was in Delhi in that duration and the parties were trying to negotiate a settlement directly with each other.
2. Today, learned counsels for the plaintiff and the defendants No.1 and 2 state that they have filed a copy of the Settlement Agreement dated 14.04.2015, wherein they have agreed that as the suit premises cannot be divided by metes and bounds, the only other option is to dispose of the same in the market and divide the sale proceeds to the extent of 1/3rd share each.

3. Counsels for the parties state that paras 2 and 3 of the Settlement Agreement refers to the disputes, subject matter of CS(OS) 2303/2010, a suit instituted by one Shri Devenderjeet Singh Sethi against the plaintiff and the defendants No.1 and 2 praying inter alia for specific performance in respect of a contract for sale of the suit premises. The parties have expressed their willingness to jointly sell the suit property to the aforesaid person, if a settlement can be arrived at with him. All the parties state that without going into the aspect of sale of the suit property to the third party mentioned above, they are agreeable if the preliminary decree dated 06.09.2013 is converted into a final decree and the parties are left to resolve the manner in which they propose to sell the suit property as they are *ad idem* that it cannot be partitioned by metes and bounds. They further submit that if for any reason, the parties are not in a position to jointly arrive at an agreed figure for disposing of the suit property or unable to identify a prospective purchaser, then they shall resort to execution proceedings.

4. Accordingly, with the consent of the parties, it is directed that the preliminary decree dated 06.09.2013 shall be treated as a final decree by holding that the plaintiff and the defendants No.1 and 2 are entitled to 1/3rd undivided share each in the suit premises. It is also

recorded that the parties agree that the suit premises cannot be partitioned by metes and bounds and it shall have to be disposed jointly at the best price that it can fetch in the market and the sale proceeds shall be divided between them in three equal shares. If the parties do not co-operate with each other for disposing of the suit premises, they would be entitled to seek execution of the decree, as per law.

5. The suit is decreed on the above lines, while leaving the parties to bear their own costs.

HIMA KOHLI, J

APRIL 23, 2015
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