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

+ **CS(OS) 136/2009**

SUGANDHA SETHI

..... Plaintiff

Through

Mrs. N. Shoba, Advocate with
Mr. Sri Ram, Mr. Adhimoolam and
Mr. Shilp Vinod, Advocates

versus

SUDHIR PURI AND ANOTHER

..... Defendants

Through

Mr. Varun Kapur, Adv. for D-1

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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04.03.2016

I.A. No.24436/2014 (by plaintiff for recalling order dated 05.05.2014)

1. The present I.A. is allowed with consent of all the parties, inasmuch as, as per Section 2 sub-Section 2 CPC decree includes both the preliminary decree and a final decree and in the present case order dated 05.05.2014 talks of passing of a final decree without actually giving the shares to the parties either in terms of value or in terms of a specified portion by division by metes and bounds. Once property cannot be physically partitioned as noted in order dated 05.05.2014 further proceedings will have to take place for sale of the property for the monetary share of the party in the property being given in terms of the preliminary decree passed on 10.04.2012.

2. Accordingly, this application is allowed and the suit is restored for the

purpose of taking steps for passing of a final decree.

3. What should be the mode to be adopted for sale of the property; whether by sale in open market or through public auction or any other mode by which the best value of the property can be derived so that the maximum monetary value of the property is available for his/her share, will be decided by the concerned transferee Court.

3. An Office Order dated 24.11.2015 has been issued by Hon'ble the Chief Justice in exercise of powers conferred by Section 4 of the Delhi High Court (Amendment) Act, 2015, whereby ordinary suits which are not commercial matters having pecuniary jurisdiction up to the value of rupees two crores cannot be tried by this Court and commercial matters up to the value of rupees one crore cannot be tried by this Court accordingly, this suit is transferred for decision to the jurisdictional Court under the District & Sessions Judge, South East, Saket Courts, New Delhi.

4. Let parties appear before the District & Sessions Judge, South East, Saket Courts, New Delhi on 26th April, 2016. Suit file be made available to the District & Sessions Judge, South East, Saket Courts, New Delhi on the date fixed.

VALMIKI J. MEHTA, J

MARCH 04, 2016

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