

\$~11.

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

+ CS(OS) No.2002/1996

RAJ KRISHAN DAS

..... Plaintiff

Through: None.

versus

JAI KRISHAN DASS AND ORS.

..... Defendants

Through: Mr. Kunal Kohli, Adv. for D-1(i),
1(v) and 1(vi).

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **02.11.2016**

1. This order is in continuation of the earlier orders dated 19th September, 2016 and 7th October, 2016.
2. Mr. Kunal Kohli Advocate, associate of Ms. Anusuya Salwan, Advocate appearing for defendants no.1(i) Ms. Kusum Sanghi, 1(v) Mrs. Veena Vaish and 1(vi) (who is also defendant no.3) Ms. Manju Gupta states that final decree for partition in terms of the preliminary decree for partition already passed on 13th September, 2000 be passed.
3. It is not understandable as to what purpose the passing of the final decree for partition in terms of the preliminary decree for partition will serve inasmuch as the preliminary decree for partition only declares the shares of the respective parties and disposing of the suit for partition without passing of a final decree for partition, either of partition of the property by metes and bounds or by sale or by payment of owelty by one party to another will not serve any purpose and will be contrary to law. The suggestion of the counsel is incongruous and not understandable in law.

4. None appears for the plaintiff.
5. However the counsel for the plaintiff on 19th September, 2016 had sought a final decree for partition by sale of the properties and distribution of sale proceeds in accordance with the shares as per the preliminary decree.
6. A perusal of the file shows that the preliminary decree for partition was in terms of compromise application on which Exhibit 'C' was put.
7. As per Exhibit 'C', the plaintiff and the three defendants have 25% share each in the properties mentioned in paras 4 to 6 of Exhibit 'C'.
8. Further, as per Exhibit 'C', the properties mentioned in paras 4 and 5 thereof were subject matter of appeals arising from another suit for partition of the larger Hindu Undivided Family (HUF) of which Mr. Jai Krishan Das HUF for partition of whose HUF this suit was filed were part.
9. Mr. Kunal Kohli, Advocate who alone appears of course has no idea as to what happened to those appeals but states that two of the properties have already been sold.
10. In this view of the matter it is deemed expedient to accept the suggestion of the plaintiff as contained in the order dated 19th September, 2016 and pass a final decree for partition of the properties mentioned in paras 4 to 6 of Exhibit 'C' by sale thereof and by distribution of sale proceeds amongst the plaintiff and the three defendants as per their share in the preliminary decree.

No costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

NOVEMBER 02, 2016/‘pp’..
CS(OS) No.2002/1996

page 2 of 2