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

+ **CS(OS) 972/2007 and CC No.51/2010 & CS(OS) 886/2009**

SHRI VIVAN MEHRA Plaintiff

Through : Mr. Ashim Vochhar, Advocate with
plaintiff in person.

versus

SMT. GITA KWATRA Defendant

Through: Defendant in person with her husband.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **05.09.2016**

IA No. 10914/2016 (joint application u/O XXIII R-3 CPC) in CS(OS) 972/2007 and

IA No. 10935/2016 (joint application u/O XXIII R-3 CPC) in CS(OS) 886/2009

1. The present compromise applications have been filed by the parties stating *inter alia* that during the pendency of the suit proceedings, they have arrived at a settlement, through mediation.

2. The plaintiff has filed CS(OS) No.886/2009 for partition and permanent injunction against the defendant in respect of premises bearing No.E-82, Paschimi Marg, Vasant Vihar, New Delhi. Vide order dated 15.5.2009 passed in CS(OS) 886/2009, the parties were directed to maintain *status quo* with regard to the possession and rights of the suit property.

3. Prior to instituting the captioned suit, the plaintiff had filed a suit, registered as CS(OS) No.972/2007, against the defendant for declaring the

will dated 17.3.2005 allegedly executed by late Smt. Sita Puri (grandmother of the plaintiff and mother of the defendant) as null and void. After entering appearance, the defendant had filed a written statement and a counter claim in the said suit, which are pending adjudication.

4. Counsel for the plaintiff and the defendant, who appears in person, jointly state that vide order dated 24.7.2015 passed in both the suits, the parties have been referred to mediation and pursuant thereto, they have arrived at a settlement, as recorded in the Settlement Agreement dated 19.8.2016. The original Settlement Agreement has been forwarded by the Delhi High Court Mediation and Conciliation Centre and placed in the file of CS(OS)No.886/2009 and the terms and conditions of the settlement have been set out in paras 1 to 35 thereof.

5. Both the parties state that in view the fact that a comprehensive settlement has been arrived at between them, both the suits may be decreed.

6. The Court has pursued the present applications. The same have been signed by the plaintiff and the defendant, apart from the counsel for the plaintiff. The applications are supported by the affidavits of the signatories to the application. The Court has also perused the Settlement Agreement dated 19.8.2016, which has been signed by the plaintiff and the defendant as also by the learned Mediator. Enclosed with the Settlement Agreement dated 19.8.2016, are two annexures. Annexure-1 is the copy of the existing site plan of the suit property and Annexure-2 is the copy of the will dated 17.3.2005 executed by Smt. Sita Puri.

7. In terms of the settlement arrived at between the parties, the plaintiff has acknowledged and accepted the will dated 17.3.2005 executed by late Smt. Sita Puri to be her last will and testament and both the parties have

agreed that they are entitled to 50% undivided share each in the suit premises. The mode and manner of dealing with the suit premises has been set out in para 18 of the Settlement Agreement. The rest of the terms and conditions of the settlement have been set out in paras 19 to 35 of the Settlement Agreement. The plaintiff and the defendant undertake to abide by the terms and conditions of the Settlement Agreement dated 19.8.2016.

8. As the counsel for the plaintiff and the defendant jointly state that they have 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 settlement. The Settlement Agreement is taken on record and the parties shall remain bound by the terms and conditions of the said settlement.

9. Both the suits are decreed in terms of the settlement arrived at between the parties and recorded in the Settlement Agreement dated 19.8.2016.

10. In the event, the parties are unable to give effect to the Settlement Agreement dated 19.8.2016 in accordance with the terms and conditions recorded therein, they shall be entitled to seek execution of the judgment and decree in accordance with law.

11. The suits and the counter claim are disposed of, while leaving the parties to bear their own expenses.

12. At this stage, learned counsel for the plaintiff and the defendant state that in view of the fact that the parties have arrived at a settlement through court annexed mediation, they are entitled to claim refund of the court fees affixed on the complaints and the counter claim, in terms of Section 16 of the Court Fees Act.

13. In view of the aforesaid submission made by the parties, the Registry is directed to issue certificates in favour of the plaintiff and the defendant for refund of the court fees under Section 16 of the Court Fees Act.

14. The date already fixed in the matters, i.e., 20.10.2016 stands cancelled.

15. Files be consigned to the record room.

SEPTEMBER 05, 2016
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HIMA KOHLI, J

