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

+ CS(OS) 482/2006

DALJEET SINGH ANAND

..... Plaintiff

Through: Mr. Surender Jain, Mr. V.S.
Aggarwal and Mr. S.K. Pal, Advs.

Versus

HARJINDER SINGH ANAND

..... Defendant

Through: Mr. Peeyoosh Kalra, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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05.09.2016

1. A preliminary decree for partition of property No.B-1/37, Ashok Vihar Phase-II, New Delhi-110052 was passed on 27th March, 2014 declaring the plaintiff and the defendant to be having 50% share each therein and a Court Commissioner appointed to explore the possibility of partition of the property by metes and bounds.

2. The Commissioner has submitted a report dated 17th August, 2015 and which was considered by this Court on 6th April, 2016. However, on that date, since the counsel for the defendant did not appear, no final order could be passed.

3. The counsel for the defendant states that the mode of partition by metes and bounds suggested by the Court Commissioner is not agreeable and does not equitably divide the property.

4. Though the counsel for the plaintiff states that the suggestions of the Court Commissioner are workable but also states that if the same are not

acceptable to the defendant, a final decree for partition by sale of the property and distribution of the sale proceeds between the parties as per the share declared in the preliminary decree be passed.

5. On enquiry, it is informed that the property comprises of a semi-finished basement, ground floor and first floor with a servant quarter above the first floor and the defendant is in possession of the ground floor and the plaintiff is in possession of the first floor and there are no outsiders in occupation of any portion of the property and the basement is unusable.

6. The counsels agree (i) that in the sale, both the plaintiff as well as the defendant shall also be entitled to bid and upon their bid being the highest and being accepted, either party shall be entitled to purchase the share of the other in the property; (ii) that they will, in pursuance to the sale, hand over vacant, peaceful and physical possession of the entire property in their possession and occupation, to the purchaser; (iii) that they will, till such sale, not induct any outsider into possession of the property and will not deal with the property.

7. Accordingly, a final decree for partition of property No.B-1/37, Ashok Vihar Phase-II, New Delhi-110052 by sale of the property and distribution of sale proceeds in accordance with the share declared in the preliminary decree is passed and the parties are bound by their statement as recorded hereinabove.

8. The parties are left to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 05, 2016/bs ..

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