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

+ CS(OS) 158/2016 & IA No.4218/2016 (u/O 39 R-1&2 CPC)

RAJIV KHURANA Plaintiff

Through: Mr. Vaibhav Sharma, Adv.

Versus

ANIL KUMAR KHURANA Defendant

Through: Mr. Shikhil Suri and Ms. Ambika Bedi, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **30.08.2016**

1. A preliminary decree for partition of property no.6, Block-D, MOL No.11156, Shiddi Pura, Karol Bagh, New Delhi constructed on land admeasuring 530 sq. yds. and declaring the plaintiff and the defendant to be having equal share therein was passed on 2nd May, 2016 and the matter adjourned to enable the parties to inform whether the property is capable of being partitioned by metes and bounds.

2. The counsel for the plaintiff states that the property is not capable of being partitioned by metes and bounds and a final decree for partition by sale of the property and distribution of sale proceeds as per the shares of the parties be passed.

3. On enquiry, it is informed that the property comprises of ground floor and first floor and the plaintiff is in possession of one room on the first floor and the ground floor has been let out by the defendant and the remaining portion of the first floor is in possession of the defendant.

4. The counsel for the defendant though appears but has no idea whatsoever about the case. On enquiry as to where the 'main counsel' for the defendant is, it is stated that he is "slightly caught up".
5. This is no ground for adjournment. The counsel for the defendant cannot on the one hand not appear himself and on the other hand send a colleague without briefing the colleague about the matter.
6. For today's adjournment, cost of Rs.10,000/- is imposed on the defendant, payable to the Delhi High Court Bar Association Lawyers' Social Security and Welfare Fund, New Delhi.
7. If the counsel for the defendant does not appear on the next date, the suit shall be proceeded with further without awaiting the counsel for the defendant.
8. List on 7th September, 2016.

RAJIV SAHAI ENDLAW, J.

AUGUST 30, 2016

9. At this stage, Mr. Shikhil Suri, Advocate for the defendant appears and apologises for his earlier non-appearance.
10. In view thereof the costs imposed are recalled.
11. The counsel for the defendant states that there are five or six tenants on the ground and first floor of the property, all paying rent of below Rs.3,500/- per month. He also states that the property is incapable of partition by metes and bounds and a final decree for partition by sale of the

property and distribution of sale proceeds in accordance with the share as per the preliminary decree be passed. It is further stated that the parties will attempt to mutually sell the property and if are unable to do so, will apply for execution.

12. Accordingly, a final decree for partition of property No.6, Block-D, MOL No.11156, Shiddi Pura, Karol Bagh, New Delhi is passed by directing the property to be sold and the sale proceeds thereof to be distributed as per the shares of the parties declared in the preliminary decree.

13. The plaintiff as well as the defendant are also restrained from alienating, encumbering or parting with possession of the property till sale in accordance with the decree.

14. On the statement of the counsel for the plaintiff that the plaintiff is not dealing with any of the tenants and it is only the defendant who is dealing with the tenants and realising rent, the defendant is also restrained from entering into any fresh agreement with the tenants.

15. The parties to bear their own costs.

16. Decree sheet be drawn up.

17. The date of 7th September, 2016 is cancelled.

RAJIV SAHAI ENDLAW, J.

AUGUST 30, 2016

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