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

+ RSA 235/2014

SIYA RAM

..... Appellant

Through: Mr. Rama Shankar, Advocate with
Mr. Sudhir Sukhija, Advocate with
appellant in person.

versus

KASHI RAM

..... Respondent

Through: Mr. Pankaj Kumar, Advocate with
respondent in person.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **06.09.2016**

1. The present second appeal and the suit concern a property bearing no.JB-4/83, Welcome Colony, Delhi situated on a plot of 25 sq yds with additional portion added thereto to make it approximately 29 sq yds. The suit was for partition of this entire property. Half of this property is already with the respondent/defendant and which is uncoloured portion in the site plan Ex.PW1/6. In the red coloured portion in the site plan Ex.PW1/6, on the ground floor portion there are two rooms. These two rooms are presently in possession of the appellant/plaintiff. There exists

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also a room on the first floor over the ground floor back room of the area marked in red, and which is in possession of the respondent/defendant.

2. Both the parties are present in person and they have been heard alongwith their counsels for settlement of the matter because both the parties are real brothers. After detailed discussion and the matter having been passed over and the counsels discussing with their clients, it is agreed that the suit and the present second appeal be disposed of in terms of the following consent order:-

(i) So far as the uncoloured portion of site plan Ex.PW1/6 is concerned, and which is on the ground floor with right of construction on the same over the first floor and above, the same will vest in the sole ownership of the respondent/defendant.

(ii) So far as the half portion marked in red in the site plan Ex.PW1/6 is concerned on the ground floor comprising of two rooms, this ground floor portion will be owned by the respondent/defendant, subject however to the condition that in the front portion room on ground floor which exists today, there will be constructed a new three feet wide staircase made for going to the first floor and above portions of this half property, and

which first floor and above portion will now fall in the sole ownership of the appellant/plaintiff. The cost of the entire staircase will be borne by the appellant/plaintiff.

(iii) The two rooms on the ground floor in red coloured portion in site plan Ex.PW1/6 which are presently in possession of the appellant/plaintiff, possession of the same will be handed over to the respondent/defendant, as detailed later, and respondent/defendant will become owner of the same being the entire ground floor portion of two rooms shown in red colour in the site plan Ex.PW1/6. The appellant/plaintiff will become owner of the half portion of the complete first floor and above portions to be constructed on these two rooms on ground floor, and which portions of first floor and above would be constructed by the appellant/plaintiff at his cost.

(iv) The red coloured portion in the site plan Ex.PW1/6, which is presently comprising of two rooms on the ground floor and one room on the first floor back portion will be reconstructed in such a manner that the newly constructed portion in the ground floor will have sufficient strength of walls and pillars so that there may be constructed upper floors on this portion over

the two rooms in ground floor red coloured portion of site plan Ex.PW1/6. Cost of the construction of ground floor portion of two rooms will be borne by the respondent/defendant including the cost of pillars upto the ground floor portion. Cost of the portions above the ground floor i.e the first floor and above portion of the red coloured portion of the site plan Ex.PW1/6, whether they be of rooms or of pillars etc, will be borne by the appellant/plaintiff and who will therefore become the owner of the portions to be constructed above the ground floor i.e first floor and above portions of the ground floor red coloured portion of site plan Ex.PW1/6.

(v) In addition to the appellant/plaintiff getting ownership of the first floor and above portions over the ground floor red coloured portion of site plan Ex.PW1/6, the appellant/plaintiff will also be the owner of one staircase which will be of three feet width in the existing front room portion on ground floor red coloured portion of site plan Ex.PW1/6 and which will go from the ground floor to the first floor and above portions of the property which falls to the ownership of the appellant/plaintiff. Portion below the staircase on the ground floor however will be owned by the respondent/defendant.

(vi) It is also made clear that possession of the ground floor portion, presently comprising of two rooms, as shown in red colour in the site plan Ex.PW1/6, will be handed over to the respondent/defendant at the time the fresh construction is to be made in the ground floor portion marked in red in site plan Ex.PW1/6, and over which portion the appellant/plaintiff has to make construction of his portion on the first floor and above.

(vii) It is clarified that reconstruction will be made of the ground floor portion as shown in red coloured portion in site plan Ex.PW1/6 by the respondent/defendant at his cost and the first floor and above portions of this part which falls to the share of the appellant/plaintiff at the cost of appellant/plaintiff, and which construction will be done within a period of two years from today.

3. Suit and the present second appeal are accordingly disposed of in terms of the aforesaid compromise between the parties.

VALMIKI J. MEHTA, J

SEPTEMBER 06, 2016

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