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

+ **CS(OS) 189/2016**

DEEPAK ARORA & ORS

..... Plaintiffs

Through: Ms. Kajal Chandra, Ms. Swati Sinha
& Ms. Perna Chopra, Advs.

Versus

KAVITA ARORA & ORS

..... Defendants

Through: Mr. S.K. Taneja, Sr. Adv. with Ms.
Deepika Madan, Sh. Shakti Singh &
Mr. Rahul Tandon, Advs. for D-1 to 3.
Ms. Vandana Khanna, Adv. for D-6 to 14.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.12.2016

1. This order is in continuation of the orders dated 6th December, 2016 and 16th December, 2016.
2. The senior counsel for the defendants no.1 to 3 fairly states that though from the averments in the written statement of the defendants no.1 to 3 it is borne out that there are other properties also besides the property of which partition is sought but the defendants in their written statement have not sought partition thereof. He states that parties be referred to Mediation Cell of this Court for an endeavour to be made to settle the controversy.
3. From the aforesaid, it is quite evident that on the pleadings as existing there is no issue requiring trial in this suit.
4. The defendants, if desire to sue for partition of other properties if any, are hereby granted liberty to do so.

5. Reference in this regard may be made to the recent judgment of the Division Bench of this Court in *Radhey Shyam Bagla Vs. Ratni Devi Kahnani* MANU/DE/3331/2014 and followed in *Sardar Jarnail Singh Vs. Sardar Amarjit Singh* 232 (2016) DLT 470 laying down that the rule, of a suit for partial partition being not maintainable is not an absolute rule and is merely a rule of convenience.
6. The defendants no.1 to 3, when the decree for partition is imminent, cannot be permitted to delay the passing of the decree by taking such pleas.
7. On enquiry, it is stated by the counsels that no outsider is in occupation of any part of the property.
8. Accordingly, a preliminary decree for partition of property Nos.F-55 & F-56, Kohla Pur Road, Kamla Nagar, Delhi declaring i) the three plaintiffs viz. Deepak Arora, Pawan Arora and Raman Arora together to be having 1/5th share therein; ii) defendants no.1 to 5 viz. Smt. Kavita Arora, Manoj Kumar Arora, Smt. Manjula Narula, Smt. Ritu Sawhney and Smt. Rachna Anand together to be having another 1/5th share; iii) the defendants no.6 and 7 viz. Jyoti Arora & Tuneer Arora together having 1/5th share; iv) defendants no.8 to 13 viz. Smt. Chanda Bhatia, Smt. Gauri Mahajan, Smt. Rajni Arora, Naresh Harichand Arora, Smt. Nita Kapoor and Smt. Neena Sachdev together having the 1/5th share; and, v) the defendant no.14 Smt. Vidya Sapra having 1/5th share therein.
9. The counsel for the plaintiffs, the senior counsel for the defendants no.1 to 3 and the counsel for the defendants no.6 to 14 state that considering the number of sharers of the property and the size of the property, the property is not capable of partition by metes and bounds.

10. Accordingly, a final decree for partition is passed by sale of the property and distribution of the sale proceeds amongst the parties as per their respective share declared in the preliminary decree.

11. The defendants no.1 to 5 who alone are stated to be in possession of the property are directed to vacate the portions in their respective possession and to deliver possession thereof to the purchaser of the property.

12. The parties are permitted to participate in the sale and bid for the property and if the bid of any of the parties is the highest, such party shall be entitled to purchase the property and shall be delivered vacant, peaceful, physical possession of the entire property.

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

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

DECEMBER 20, 2016

‘gsr’..

Statement of Dr. Kulbhushan Goel, S/o Sh. Hari Singh Goel, aged about 76 years, R/o D-63, Naraina Vihar, New Delhi-110028.

AND

Statement of Sh. Dhruv Jyoti Goel, S/o Sh. Raj Kumar Goel, aged about 50 years, R/o 9 Chanan Singh Park, Delhi Cantt.,

Both OnSA

1. We have amicably agreed to divide the portion ad-measuring 2805 sq. ft. on the Western side of Plot No.1/200, comprised in Survey No.49/51, Sadar Bazar, Delhi Cantt.-110010 by metes and bounds.
2. We have jointly got prepared a plan and present the same to the Court. We have today before the Court signed the said site plan.
3. We have agreed to divide the property demarcated by alphabets A,B,C&D in the site plan Ex C-1 by constructing a wall between the points E&F with both portions having equal size in terms of land. We have further agreed to jointly bear the expenses of construction of the wall and have further agreed to construct the wall within six months herefrom and to obtain all permissions if any required therefor jointly.
4. It has been further agreed between us that the divided portion demarcated by A,E,F&C in the said site plan shall belong to defendants no.1&2 and the divided portion demarcated by alphabets E,B,D&F shall belong to the plaintiff.

5. We have yet further agreed to bear the costs of the stamp duty payable on preparation of the decree in equal share.

6. I, Dhruv Jyoti Goel, defendant no.1 also state that I am authorized by my mother defendant no.2 Mrs. Santosh Goel to make this statement on her behalf.

RO&AC
DECEMBER 20, 2016
'gsr'

RAJIV SAHAI ENDLAW, J