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

+ CS(OS) 1707/2010 and I.A. 11167/2010, 14795/2013

SHASHI SHARMA

..... Plaintiff

Through: Mr. Kuber Giri, Advocate

versus

SOMLATA MISRA & ORS

..... Defendants

Through: Mr. Satish Sahai, Advocate for D-1 to 5.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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24.08.2016

I.A. 985/2016 (by D-1 to D-5 u/S 151 CPC)

1. The present application has been filed by the defendants No.1 to 5 stating *inter alia* that a preliminary decree of partition was passed on 08.08.2011, whereunder the plaintiff and the defendants No.1 to 5 were declared as entitled to 1/6th undivided share each in the immovable property bearing No.J-17A, Hauz Khas Enclave, New Delhi. It was observed that since it was not feasible to divide the suit property by metes and bounds, the same may be sold through private negotiations. It was also recorded that the movable properties detailed in Annexure B shall be divided amongst the parties in the ratio of 1/6th each. Subsequently, suit property was sold through private negotiations. A copy of the Sale Deed dated 16.02.2015 has been placed on record. The defendants pray that now, nothing further survives in the suit, which may be disposed of.

2. Issue notice.
3. Counsel for the non-applicant/plaintiff accepts notice and states that the movable assets mentioned in Annexure B have not yet been physically divided.
4. In view of the fact that a preliminary decree has already been passed on 08.08.2011, declaring *inter alia* that all the parties are entitled to 1/6th undivided share in the immovable and movable properties, subject matter of the suit, the parties shall be at liberty to jointly approach the concerned banks, where accounts were maintained by the deceased, Smt. Shanti Devi as also the bank where she had a locker, for them to seek release of the amounts deposited there, to be divided amongst them to the extent of 1/6th share each. Similarly, the parties are at liberty to jointly approach Canara Bank, Hauz Khas Market for operating the locker in the name of Smt. Shanti Devi and take out all the jewellery, gold and other items and divide the same amongst them, either by selling them in the market and sharing the sale proceeds or by valuing the said movables and distributing them mutually. In the event the parties are unable to do so on their own, they shall be at liberty to seek execution of the present order.
5. A final decree is passed in terms of the order dated 08.08.2011.
6. The suit is disposed of alongwith the pending applications.

HIMA KOHLI, J

AUGUST 24, 2016
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