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

+ **CS(OS) 848/2015**

JASVINDER KAUR

..... Plaintiff

Through Ms. Anjali Chopra, Advocate

versus

JASPAL KAUR & ORS

..... Defendants

Through Mr. Manjit Singh Ahluwalia, Advocate for
Defendant no.1.

Mr. P D Gupta, Sr. Advocate with Ms.
Gurjeet Kaur, Advocate for defendant
no.2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

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24.10.2016

1. Plaintiff has filed the present suit for partition, possession and permanent injunction. The plaintiff is the daughter of the defendant no.1. Defendant nos. 2 to 5 are the sisters of the plaintiff.
2. The suit properties comprises of being property No. L-28 (old no.17) situated in Abadi known as Shastri Nagar, Village Chokri Mubarkabad, Delhi, now popularly known as L-28, Shastri Nagar, Delhi- 110 052 measuring 100 sq. yards, built upto second floor.
3. The second property is M-10, Anand Parbat, Industrial Area, New Delhi- 110 005 measuring 65 sq. yards, which is built up property. Both the properties belonged to Sardar Manmohan Singh who died intestate. Accordingly, all parties are entitled to 1/5th share in both the properties.
4. Learned counsel appearing for defendant no.5 was impleaded as a party

admittedly on the apprehension that defendant no.1 was threatening to sell the property to defendant no. 5.

5. Despite service, none is present on behalf of defendant no.5. Counsel for the parties submit that as defendant no.5 is not a necessary party, defendant no.5 may be deleted from the array of parties.
6. As prayed, defendant no.5 is deleted from the array of parties. Let an amended memo of parties be filed.
7. Accordingly, as prayed a preliminary decree is passed defining the shares of the parties as 1/5th shares each.
8. At this stage, parties submit that no useful purpose would be achieved in appointing a Local Commissioner to suggest modes of partition, as both the properties cannot be divided by metes and bounds having regard to the size of the property.
9. Accordingly, a final decree is passed defining the shares of the parties as 1/5th share, each.
10. Learned counsel for the parties further pray that leave be granted to the parties to mutually sell the suit properties within a period of six months and in case the properties cannot be sold within six months either of the parties may approach the Court for execution of the decree.
11. As prayed, the parties would endeavour to sell the suit properties by mutual consent within six months from today, failing which any of the parties may approach the Court by filing an execution petition.
12. Defendant nos. 1, 3 and 4 had initially argued that the property was purchased by the mother. Since the parties have agreed to partition, this question is no longer relevant, nor arises.
13. Parties are agreed that they will not claim any right of possession at the time of sale of the property.
14. All the parties also agree that none of the parties will change the

character of the property, till the same are sold.

15. Accordingly, suit stands decreed in above terms. Let a decree sheet be drawn up accordingly.

G.S.SISTANI, J.

OCTOBER 24, 2016/P

