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

+ RSA 167/2012 & C.M. Nos.17231/2012, 21786/2015 & 5905/2016

SURENDER KUMAR GUPTA DECEASED THR LEGAL
REPRESENTATIVE

..... Appellant

Through: Mr. Rajeev Saxena, Advocate with appellant
in person.

versus

MAHENDER KUMAR GUPTA

..... Respondent

Through: Mr. Mukesh Gupta, LR No.2 in person.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

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18.02.2016

1. In terms of the last order, the respondent has filed an undertaking as well as the affidavit of compliance. So far as the undertaking is concerned, the same is not attested and therefore, cannot be taken cognizance of. As regards the affidavit of compliance, it has not been mentioned in the same that the respondent herein has handed over the area of 304.88 square yards out of the total parcel of land measuring 609.75 square yards which was the suit property in terms of the direction passed by the first appellate court.

2. Mr. Saxena, the learned counsel for the appellant, on instructions from the appellant, has made a statement that the aforesaid area falling to the share of the appellant in terms of the first appellate court's orders has already been demarcated by erecting a masonry wall of 9 inches right across the plot of land horizontally and the possession of the area measuring 304.88 square yards has been handed over to the appellant.

3. The respondent has handed over a coloured photocopy of the photograph which shows that a wall of 9 inches has been erected in order to identify the portion falling to the share of the appellant. The said photograph has been handed over to the learned counsel for the appellant, who has seen the same and confirmed that the masonry wall measuring 9 inches is falling to the share belonging to the appellant and as and when the respondent herein wants to raise his construction and boundary wall, he shall be at liberty to construct a separate masonry wall of 4 ½ or 9 inches as he may feels fit adjoining the masonry wall which belongs to the appellant.

4. In view of the aforesaid submissions made by the learned counsel for the appellant and the respondent, the Registry to draw a decree in terms of the settlement and also indicate the position of the wall in the decree.

5. So far as the parcel of land which has fallen to the share of the appellant is concerned, that will be numbered as 11-A, Birbal Road, Jungpura Extension, Delhi and the parcel of land falling to the share of the respondent is already shown in the Conveyance Deed as 11-B. Both the parties are at liberty to take such appropriate action for getting the lay out/construction plan sanctioned from the competent authority as may be permissible in law.

6. With these directions, the appeal stands disposed of. All pending applications also stand disposed of.

FEBRUARY 18, 2016/‘AA’

V.K. SHALI, J.