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

+ **CS(OS) NO.273/2016 & IAs No.6866/2016 (u/O 39 R-1&2 CPC) & 6868/2016 (for exemption to file original documents)**

BRIG. ANAND SOLANKI (RETD) Plaintiff

Through: **Mr. Anil Sharma and Mr. Vinod Kumar, Advs.**

Versus

BRIG. RAJ SINGH SOLANKI (RETD) & ANR Defendants

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **22.09.2016**

1. The parties in this suit for partition of immovable property were referred to the Mediation Cell of this Court.
2. Mediation has been successful with the efforts of Mr. Maneesh Goyal, Advocate / Mediator and a Settlement Agreement dated 8th September, 2016 purporting to bear the signatures of the plaintiff and the two defendants as well as of their respective advocates and the Mediator has been received in this Court.
3. The counsel for the plaintiff supports the Settlement Agreement and seeks a decree in terms thereof.
4. None appears for the defendants.
5. The counsel for the plaintiff states that he has received a call from Mr. Gaurav Gaur, Advocate for the defendants informing that he is unwell but otherwise having no objection to the suit being decreed in terms of the Settlement Agreement.

6. There is no reason to not believe the counsel for the plaintiff or to await the counsel for the defendants.
7. The Settlement Agreement between the parties is of division of property by metes and bounds.
8. The property, for partition of which the suit was filed, was described in the plaint as land measuring 4 bighas 16 biswas forming part of Khata Khatauni No.113/105 min and land measuring 4 bighas 16 biswas each forming part of Khata No.114/105 min and 115/105 min, situated in the revenue estate of Village Nasirpur, District-(South-West), Tehsil Dwarka, New Delhi. The Settlement Agreement also mentions a proceeding under Section 74 of the Delhi Land Reforms Act, 1954 having been undertaken with respect to the subject land.
9. I have thus enquired from the counsel for the plaintiff as to how this Court i.e. Civil Court can pass a decree for partition of agricultural land governed by the provisions of Delhi Land Reforms Act, 1954.
10. The counsel for the plaintiff states that the revenue estate of Village Nasirpur has been urbanised and a notification under Section 507 of the Delhi Municipal Corporation Act, 1957 (MCD Act) has been issued with respect thereto and thus the provisions of the Delhi Land Reforms Act have ceased to apply to the said village.
11. Though the counsel for the plaintiff is not able to give particulars of the said notification today, but again, rather than awaiting the same, it is deemed expedient to make the decree to be passed, conditional upon existence of such a notification.
12. The Settlement Agreement being of division of the property by metes

and bounds, it has been enquired, whether the parties are willing to pay stamp duty on the decree for partition.

13. The counsel for the plaintiff replies in the affirmative and on further enquiry states that the stamp duty shall be borne equally by the plaintiff and the two defendants in the ratio of 1/3rd each.

14. Else, the compromise is found to be lawful and is allowed.

15. The parties, in the Settlement Agreement, have not described their respective share in the property. In view of the parties having agreed the property to be partitioned by metes and bounds, the need to pass a preliminary decree for partition is not felt.

16. A decree is accordingly passed for partition of land measuring 4 bighas 16 biswas, forming part of Khata Khatauni No.113/105 min situated in the revenue estate of Village Nasirpur, District South West, Tehsil Dwarka, New Delhi and land measuring 4 bighas 16 biswas each forming part of Khata No.114/105 min and 115/105 min situated in the revenue estate of Village Nasirpur, District South West, Tehsil Dwarka, New Delhi in terms of the Settlement Agreement and the annexures thereto and which shall form a part of the decree sheet.

17. The aforesaid decree is however made conditional upon the notification under Section 507 of the MCD Act having been issued with respect to the village in which the land is situated.

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

19. Upon the parties depositing the requisite stamp duty, decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 22, 2016/‘bs’..

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