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

+ RSA 209/2016

DR MOHD IDREES (RAJA) & ANR Appellants
Through: Appellants in person

versus

BABU RAM & ORS Respondents
Through: Mr.Bhaskar Tiwari, Advocate with
respondents in person

AND

+ RSA 211/2016

DR MOHD IDREES Appellant
Through: Appellant in person

versus

PRAVEEN KUMAR & ANR Respondents
Through: Mr.Bhaskar Tiwari, Advocate with
respondents in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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15.12.2016

RSA Nos.209/2016 & 211/2016

1. These Regular Second Appeals have been preferred against the concurrent judgment/finding of the Courts below i.e. of learned Trial Court dated 14th July, 2010 and of the First Appellate Court dated 30th April, 2016.
2. The learned trial Court vide its judgment dated 14th July, 2010 decreed Civil Suit No.512/06 titled as Babu Ram Vs. Mohd. Idris and dismissed Civil Suit No.511/06 titled as Mohd. Idris Vs. Praveen Kumar.
3. The judgment of the learned trial Court was challenged by filing RCA

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Nos. 67/16/2010, 68/16/2010 and 193/16/10 which were dismissed being meritless.

4. On 27th September, 2016 on hearing the parties this Court passed the following order:-

"1. These appeals were more or less completely argued on the last date of hearing i.e 21.9.2016. At one stage, in the arguments it was submitted that instead of inviting a judgment on merits it would be better if the parties negotiate by settlement outside the Court so as to compromise the disputes.

2. Today, it is stated that it is agreeable that FAR in the suit plot be divided in the ratio of 60% to the respondents and 40% to the appellants and which will be done by drawing a nominal line dividing the plot by giving 40% to the appellants and 60% to the respondents. Nominal division of the plot would not be a sub-division for the purpose of municipal records or for the same to violate any law but it is only for ensuring that each person will construct on his portion allotted to him in the ratio of FAR allowed for construction viz 40% to the appellants and 60% to the respondents.

3. It is agreed that appellants will bring a site plan in this Court nominally dividing the plot 40% in favour of the appellants and 60% in favour of the respondents and this plan will then be signed by both the parties and a decree will accordingly be passed whereby the disputes between the parties would stand settled as stated in the present order. It is also clarified that reference to the parties will include reference to the legal representatives of the original parties to the suit.

4. List on 7th October, 2016."

5. Today parties are present in person and have placed on record the site plan prepared in terms of understanding arrived at and recorded by this Court on 27th September, 2016.

6. On behalf of the appellant it has been submitted that the issue of mesne profit payable to the respondent also needs to be dealt with.

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7. Learned counsel for the respondents submits that so far as issue of mesne profit is concerned, the respondents will withdraw the execution petition and will not claim any mesne profit.

8. It is submitted by the parties that the decree passed by the learned trial Court may be directed to be modified in terms of the settlement arrived at between the parties whereby the respective portions of the parties have been reflected in the site plan in red and green colour in ratio of 40% and 60% respectively. The site plan which is now exhibited as C-1 is duly signed by all the parties and its correctness is affirmed on affidavit. It is also agreed by the parties that this is only a nominal division of the plot and would not be a sub-division for the purpose of municipal record but only for ensuring that each person will construct on his portion allotted to him in the ratio of FAR allowed for construction viz 40% to the appellants and 60% to the respondents.

9. The RSA Nos.209/2016 and 211/2016 are disposed of in terms of the above settlement and the site plan exhibit C-1.

10. The judgment and decree dated 14th July, 2010 passed by the learned trial Court stands modified in above terms.

11. Registry is directed to prepare the decree sheet accordingly.

CM No.28324/2016 in RSA No.209/2016

CM No.28389/2016 in RSA No.211/2016

Dismissed as infructuous.


PRATIBHA RANI, J.

DECEMBER 15, 2016

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