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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 968/2014

SHRI BALRAJ KRISHAN GUPTA & ANR

..... Petitioners

Through Mr.Arvind Bhatt, Advocate.

versus

SHRI SHIVRAJ KRISHAN GUPTA & ORS

..... Respondents

Through Mr.Sandeep Mittal, Advocate for R-1 to R-4.
Mr.Abhinav Sharma, Advocate for R-5.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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15.01.2016

The orders impugned before this Court are the order dated 30.5.2014 and 12.8.2014.

Vide the first order the application filed by the petitioner (defendant no.3 in Court below) under Order XX Rule 18 CPC seeking an additional issue to determine the extent of the mesne profit qua defendant nos.2 to 4 be framed had been declined. A review petition has been filed against the said order which has also been declined.

Learned counsel for the petitioner is aggrieved by the said orders. Submission is that the law under Order XX Rule 18 CPC is clear and when a decree is drawn up in a suit for partition it is open to the Court "to give such further directions as may be required"; this envisages an inquiry to determine the extent of mesne profit; even in the absence of a

specific pleading on this count in view of the judgment of a Bench of this court reported in 2011 (123) DRJ 52 Sita Kashyap Vs. Harbans Kashyap inquiry for mesne profits may be considered. The position at law is fairly clear on this count.

In this view of the matter, this petition is disposed of with a direction to the Trial Judge that at the time of passing final decree, if required, an inquiry under Order 22 R. 18 CPC may gone into qua defendant nos.3 and 4. Nothing else is pressed.

With these directions petition disposed of.

INDERMEET KAUR, J

JANUARY 15, 2016

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