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

+ **CS(OS) 393/2016 & IA No.9512/2016 (u/O 39 R-1&2 CPC)**

YASMIN ASGHAR & ANR

..... Plaintiffs

Through: Mr. Tarique Siddiqui, Mr. Tanveer Ahmad and Mr. Rakhshan Ahmad, Advs.

Versus

SHAHEEN AMJAD & ANR

..... Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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10.08.2016

1. This order is in continuation of the earlier order dated 8th August, 2016.
2. The counsel for the plaintiffs states that though under the Mohammedan Law, a Will can be made of not more than 1/3rd of the estate but the plaintiffs are not interested in challenging the Will of the mother on the said ground and unconditionally accept the Will.
3. The counsel for the plaintiffs further states that the plaintiffs do not want to press the case of the family settlement (after the demise of the mother) pleaded and as per which, the plaintiffs, in the plaint in the suit, claim to have become exclusive owner of the ground floor and basement of the property.

4. The counsel for the plaintiffs states that the plaintiffs seek partition only of the ground floor, basement and the terrace above the third floor of the property and in which according to the plaintiffs, the two plaintiffs and the two defendants have 1/4th undivided share each.

5. The counsel for the plaintiffs seeks to withdraw the suit with liberty to institute a suit only for partition of the ground floor, basement and terrace above the third floor of property No.A-24, Gulmohar Park, New Delhi.

6. The suit is dismissed as withdrawn with liberty aforesaid and binding the plaintiffs to, in proceedings if any filed in future with respect to the subject property, disclose the factum of the present suit as well as the order dated 8th August, 2016 and today's order therein.

No costs.

RAJIV SAHAI ENDLAW, J.

AUGUST 10, 2016

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