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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + RFA No.866/2015 & CMs No.11329/2016 (of respondent for directions), 31516/2015 (for stay), 13003/2016 (u/O 6 R-17 CPC), 13004/2016 (for stay) & 13005/2016 (for condonation of 149 days delay in filing CM No.13003/2016)

KABOOL SINGH (SINCE DECEASED) THR LRS Appellant
 Through: Ms. Ekta Sikri, Adv.

Versus

KHANDELWAL JAIN SOCIETY Respondent
 Through: Mr. Pranav Jain, Adv.

AND

RFA No.58/2016 & CM No.3954/2016 (u/O 41 R-27 CPC).

THE SOCIETY FOR THE PROTECTION

AND MANAGEMENT OF THE KHANDELWL

JAIN TEMPLE AND DHARAMSHALA

..... Appellant

Through: Mr. Pranav Jain, Adv.

Versus

KABOOL SINGH (SINCE DECEASED) THR LRs Respondent

Through: Ms. Ekta Sikri, Adv.

AND

RFA No.871/2015 & CM No.31535/2015 (for stay).

KABOOL SINGH (SINCE DECEASED) THR LRs

& ORS

..... Appellants

Through: Ms. Ekta Sikri, Adv.

Versus

SOCIETY FOR THE PROTECTION AND MANAGEMENT OF

THE KHANDELWAL JAIN TEMPLE

AND DHARAMSHALA

..... Respondent

Through: Mr. Pranav Jain, Adv.

AND

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+ RFA No.236/2016, CM No.14831/2016 (for condonation of 29 days delay in filing the appeal) & CM No.14832/2016 (for condonation of 60 days delay in re-filing).

KABOOL SINGH (SINCE DECEASED) THR LRS Appellants
Through: Ms. Ekta Sikri, Advs.

versus

KHANDELWAL JAIN SOCIETY Respondent
Through: Mr. Pranav Jain, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

27.04.2016

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1. This order is in continuation of yesterday's order.
2. Mr. Rakesh Kumar and Mr. Manish Kumar, Legal Representatives (LRs) of Mr. Kabool Singh and Mr. Prabodh Jain and Mr. Vinod Kumar Jain, Secretary and Treasurer respectively of Khandelwal Jain Society (KJS) are present and parlays for settlement have been held.
3. Mr. Rakesh Kumar and Mr. Manish Kumar state:
 - (i) that they are authorised to give statements and enter into compromise also on behalf of other LR's of Mr. Kabool Singh and would be in a position to, within two weeks of today, file affidavits of the other LR's also in this Court;
 - (ii) that the LR No.7 Mr. Rahul of Mr. Kabool Singh has also now attained majority;
 - (iii) that besides the LR's shown in these proceedings, there are no other LR's of Mr. Kabool Singh and the said LR's only are in possession and control of the entire property subject matter of these

proceedings and will hereinafter not allow any other person into use and occupation of the said property or any part thereof;

(iv) that they understand the consequences of giving undertaking to this Court.

4. Similarly, Mr. Prabodh Jain and Mr. Vinod Kumar Jain state that they are authorised to enter into the compromise on behalf of KJS.

5. It has been agreed between the parties as under:

(A) that the LRs of Mr. Kabool Singh do hereby withdraw RFA Nos.866/2015, 871/2015 & 236/2016 in terms of this compromise and will abide by the judgment and decree;

(B) that the LRs of Mr. Kabool Singh had already deposited in this Court the entire decretal *mesne* profits till the month of December, 2015 and the amount for the months of January, February, March and April, 2016 has been paid directly to KJS;

(C) that KJS shall be entitled to immediately withdraw the amounts lying deposited in this Court along with interest, if any accrued thereon;

(D) that the LRs of Mr. Kabool Singh will hand over vacant, peaceful and physical possession of the entire property in their use and occupation, save 300 sq. yards, on or before 30th June, 2016 and will give an undertaking to this Court to the said effect;

(E) that the LRs of Mr. Kabool Singh shall pay electricity and water charges of the portion in their occupation till the date of vacation and shall ensure that no part thereof becomes the liability of KJS;

- (F) that the LR's of Mr. Kabool Singh shall hand over vacant, peaceful and physical possession of the remaining 300 sq. yards to KJS on or before 30th April, 2018;
- (G) that the LR's of Mr. Kabool Singh shall continue to pay a sum of Rs.10,000/- per month to KJS, month by month, in advance for each month by the 15th day of the month and upon default in payment for any month, shall forfeit their right to use 300 sq. yards till 31st March, 2018;
- (H) that the portion of 300 sq. yards which the LR's of Mr. Kabool Singh will occupy till 30th April, 2018 will be in one corner of the property presently in their occupation and to be mutually identified by the parties and the parties to file a site plan with measurements indicating the said portion in this Court within two weeks;
- (I) that the LR's of Mr. Kabool Singh at their own costs and expenses shall erect a fence not more than 6 ft. segregating 300 sq. yards from the remaining property and shall also shift the electricity and water (filtered and/or unfiltered) and sewer connection to the said 300 sq. yards and KJS shall render all assistance in this regard;
- (J) that the LR's of Mr. Kabool Singh shall not make any construction over the said 300 sq. yards and shall use the same only as a nursery and not for any other residential or commercial purpose. They shall however be entitled to have a tin shed with wood inside and a green shed without any *Pucca* construction thereon and a gate opening towards the side of the road.
- (K) that the LR's of Mr. Kabool Singh shall furnish undertaking to this Court in terms of above;

(L) that subject to the LRs of Mr. Kabool Singh complying with their undertaking KJS shall not execute the decree for possession till 30th June, 2016 and 30th April, 2018 as aforesaid;

(M) that if the LRs of Mr. Kabool Singh are in breach of the undertakings, KJS shall be entitled to execute the decree and the LRs of Mr. Kabool Singh shall also be liable for contempt of Court;

(N) that subject to the LRs of Mr. Kabool Singh paying to KJS on or before 30th June, 2016, a total sum of Rs.1,50,000/-, KJS shall withdraw Execution Case No.58/2015 pending in the Court of Mr. Tarun Sahrawat, Additional District Judge-04, Tis Hazari Courts, Delhi;

(O) that subject to the LRs of Mr. Kabool Singh complying with their undertakings, KJS shall not press RFA No.58/2016. However, in the event of any breach by the LRs of Mr. Kabool Singh, KJS shall be entitled to revive the said appeal;

(P) that KJS shall furnish particulars of its bank account to the LRs of Mr. Kabool Singh who will make payment of Rs.10,000/- per month therein in terms of this order.

6. The aforesaid compromise arrived at between the parties is found to be lawful and is allowed.

7. RFAs No.866/2015, 871/2015 & 236/2016 preferred by the LRs of Mr. Kabool Singh are hereby dismissed as withdrawn.

8. The LRs of Mr. Kabool Singh however, subject to complying with their part of the compromise aforesaid and giving an undertaking to this Court and abiding by the said undertaking shall be entitled to time, till 30th

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June, 2016 to vacate the property with respect where to decree for possession has been passed, save 300 sq. yards and time till 30th April, 2018 to vacate the remaining 300 sq. yards.

9. The site plan identifying the said 300 sq. yards be filed in this Court within one week.

10. The LR, Mr. Rakesh Kumar and Mr. Manish Kumar have furnished their undertaking in the Court and have also furnished undertaking to file in this Court, affidavits by way of undertaking of the other LRs of Mr. Kabool Singh.

11. The undertaking given by the LRs of Mr. Kabool Singh are accepted by this Court and they are ordered to be bound thereby.

12. Subject to the LRs of Mr. Kabool Singh complying with their part of the compromise aforesaid and their undertaking, the decree insofar as for recovery of possession is made in-executable till 30th June, 2016, save for 300 sq. yards and for the said 300 sq. yards inexecutable till 30th April, 2018.

13. However, if the LRs of Mr. Kabool Singh are in breach of their compromise and / or the undertaking, the decree shall be executable immediately and they shall also be liable for consequences of breach of undertaking given to this Court.

14. The liability of the LRs of Mr. Kabool Singh shall be joint and several.

15. In terms of the compromise aforesaid, RFA No.58/2016 is also disposed of with liberty to KJS to revive the same again, if occasion therefor arises in terms of compromise aforesaid.

16. The appeals are disposed of in the aforesaid terms.

~~The~~ The parties to bear their own costs.

Dasti under signature of Court Master.

APRIL 27, 2016

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RAJIV SAHAI ENDLAW, J.

