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

+ **CS(OS) 273/2011**

RENU BHANDARI & ANR ..... Plaintiffs  
Through Mr. Gaurav Bhardwaj, Advocate  
versus

CHANDER SHEKHAR & ORS ..... Defendants  
Through Mr. Jitendra Chaudhary and  
Ms. Shipa Chohan, Advocates for  
defendants No.6,7 & 9

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **27.11.2017**

1. The counsel for the plaintiff seeks adjournment to file a report of valuation of the property.
2. Counsel for defendants No.6,7 & 9 appears. None appears for defendants No.1,5 & 8.
3. The counsel for defendants no.6,7 & 9, on enquiry, states that in this suit for partition of property bearing No. 12-B. Rajindra Park, New Delhi, a preliminary decree was passed on 4<sup>th</sup> September, 2013 declaring the two plaintiffs, namely, Renu Bhandari and Suman Bhandari to be having  $\frac{1}{2}$  share in the property, the defendants No.6 & 7, namely, Mikhil Dargan and Mohit Dargan to be having  $\frac{1}{4}$ <sup>th</sup> share and defendant no.9, Ashok Garg to be having the remaining  $\frac{1}{4}$ <sup>th</sup> share in the property. It is further stated that the defendants No.1 to 5

have relinquished their share in the property to the defendants No.6 & 7 and have not been appearing and defendants no.6 & 7 have since transferred their share in favour of the defendant no.9 and thus besides the  $\frac{1}{2}$  share of the plaintiffs together, the defendant no.9 has the remaining  $\frac{1}{2}$  share in the property.

4. On yet further enquiry, it is stated that the defendants No.6 & 7 have, vide Registered Sale Deed, transferred their  $\frac{1}{4}^{\text{th}}$  undivided share in favour of the defendant no.9 with the permission of this Court.

5. On further enquiry, whether the preliminary decree for partition has been amended to the said effect, the answer is in the negative.

6. The counsels are also *ad idem* that the property cannot be partitioned by metes and bounds and has to be sold and for which purpose the plaintiff is seeking time to file a report of valuation of the property.

7. On yet further enquiry, it is stated that it is only the plaintiffs and defendant no.9, who are in use and occupation of the property.

8. In this view of the matter, a final decree for partition of the property, by sale of the property and distribution of sale proceeds amongst the parties in accordance with their shares declared in the preliminary decree is to be passed and there is no need to adjourn the suit.

9. On request of the counsel for defendants no.6,7 & 9 and to which the counsel for the plaintiff has no objection, the preliminary

decree for partition dated 4<sup>th</sup> September, 2013 is modified by declaring the plaintiffs, namely, Renu Bhandari and Suman Bhandari to be having ½ share in the property and the defendant No.9, namely, Ashok Garg to be having the other ½ share in the property.

10. A final decree for partition of property No. 12-B, Rajindra Park, New Delhi is passed, of sale of the property and by distribution of the sale proceeds amongst the plaintiffs together and the defendant no.9 in proportion to their shares declared in the preliminary decree for partition dated 4<sup>th</sup> September, 2013 as modified today.

11. It is further agreed between the parties that the parties, if so desire, before having the property sold through the process of the court, would be entitled to make inter-se bids, with the party making the highest bid being entitled to purchase the share of other/s on payment of the sale consideration of the share of the other party and vacating the portion of the property in her / his / their possession and in the event of parties being unable to do so, by jointly selling the property either themselves or through process of Court and delivering vacant peaceful physical possession of property in their respective possession to purchaser on receipt of sale consideration; if either party fails to do so, shall be liable to be removed therefrom as if in execution of decree for possession.

No costs.

12. Decree sheet be drawn up.

13. At this stage, the counsel for the plaintiffs states that the plaintiffs preferred FAO (OS) No. 355/2016 against the order dated

24<sup>th</sup> October, 2016 directing public auction of the property and which has been dismissed on 16<sup>th</sup> May, 2017.

14. The counsel for the plaintiffs states that he has advised his client to approach the Supreme Court thereagainst.

15. However, the same does not come in the way of passing a final decree for partition aforesaid.

**RAJIV SAHAI ENDLAW, J**

**NOVEMBER 27, 2017**  
**Mw..**