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

+ CS(OS) 109/2016 & IAs No.3029/2016 (u/O XXXIX R-1&2 CPC) & 9557/2016 (u/O XII R-6 CPC)

PRABHAT KAMAL GUPTA Plaintiff
Through: Mr. Akshay Makhija, Ms. Mahima Bahl and Ms. Shivi Sanyam, Advs.

Versus

ASHOK KAMAL & ORS Defendants
Through: Mr. Prashant Mehra, Adv. for D-1.
Mr. Aayush Agarwala, Adv. for D-4 to 6.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.05.2017

1. The parties have been unable to finalise a family settlement also of division of the property. Today also, the parties through counsels blame each other.
2. It is quite evident from the efforts being made since the preliminary decree of partition for finding out possibility of division by metes and bounds of the property that the same is not possible.
3. The only way is to pass a final decree for partition of the property by sale and distribution of the sale proceeds as per the shares declared under the preliminary decree for partition.

4. Accordingly, a final decree for partition of property No.10, Friends Colony (West), New Delhi as shown in Schedule-C to the plaint (after excluding 1/3rd share standing in the name of Smt. Amita Rani Gupta) is passed of sale of the said property and by distribution of the sale proceeds amongst the parties as per their shares declared in the preliminary decree for partition and clarifying (i) that all parties shall be entitled to participate in the sale and to make bids for purchase of the property and if any of the parties is the highest bidder, would be entitled to purchase the share of the others as per the preliminary decree on the same terms of conditions on which bids were invited; and, (ii) the parties shall deliver vacant peaceful physical possession of the portion in their respective possession to the purchaser and if fail to do so, shall be liable to be removed therefrom as if in pursuance to a decree for recovery of possession of immovable property.

5. The parties are left to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

MAY 08, 2017

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