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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 187/2016 & IA No. 3397/2017 (under Order 23 Rule 3 CPC)
MR. DEEPAK GOVIL Plaintiff

Through: Mr.Aaditya Vijaykumar, Advocate

versus

MR. AJAY GOVIL & ORS Defendants
Through: Mr. Tushar Singh, Advocate with D-1
in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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24.03.2017

1. This civil suit was instituted in April, 2016 seeking decree of partition in respect of property described as 39, Todarmal Lane, New Delhi, the sole plaintiff Deepak Govil (hereinafter the plaintiff) being the brother of the first three defendants they being Ajay Govil (first defendant) Anju Bhatnagar (second defendant) and Chitra Choudhry (third defendant), the plaintiff and the said three defendants being children of Mrs. Raj Rani Govil (fourth defendant), GP Govil & Sons HUF having been impleaded as the fifth defendant.

2. The parties during the course of proceedings arising out of this suit were referred, on their request, to Delhi High Court Mediation and Conciliation Centre (*Samadhan*) where they entered into a Settlement Agreement on 15.12.2016. The said Settlement Agreement dated 15.12.2016 has been placed on record on this case by the mediator with his report of the said date. Noticeably, in the opening part of the Settlement Agreement, the plaintiff has been described as party of the first part whereas the defendants have been described as second party collectively as the

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parties of the second part but in the material portion beginning with para 19 the plaintiff has been described as “second party” and the first defendant has been described as “first party”.

3. The parties have come up with a joint application under Order 23 Rule 3 CPC (IA No. 3397/2017) seeking a decree to be passed on the basis of the said Settlement Agreement. Noticeably, the second defendant had constituted the first defendant as her special attorney by executing a Special Power of Attorney dated 5th December, 2016, duly notarised by notary public in the State of New Jersey, USA. Similarly, the third defendant had constituted the first defendant as her special attorney by executing Special Power of Attorney dated 6th December, 2016 duly notarised before the notary public in Mumbai on the same date. Further, the fourth defendant also constituted the first defendant as her special attorney by executing Special Power of Attorney on 12th December, 2016 which was attested by notary public at New Delhi on the same date. All the said three documents (Special Power of Attorneys) have been submitted with the Settlement Agreement which was consequently signed by the first defendant not only on his own behalf but also on behalf of second, third and fourth defendants being their special attorney. The joint application has been similarly signed by the second defendant in the capacity of a party to the case (first defendant) as also the attorney of other contesting defendants (second to fourth defendants).

4. The settlement terms have been set out in (para 19 of) the Agreement which read as under:-

“A. It has been agreed between the parties that Mr. Ajay Govil (first party) and Mr. Deepak Govil (second party) shall be the joint owners of, and shall jointly have the absolute right, title and interest in the said property comprising the said plot and bungalow bearing No.39, Todarmal Lane, Bengali Market,

New Delhi – 110001 consisting of Ground Floor, First Floor and Second Floor together with the right to use common spaces like staircase, staircase landings on all floors, sewer arrangements etc. and all easementary rights attached therewith.

B. It has been agreed by the parties, acknowledged and confirmed that neither Mrs. Raj Rani Govil, Mrs. Anju Bhatnagar and Mrs. Chitra Choudhry not their heirs, successors in interest, legal representatives, attorney holders etc. will have any existing or future right, title or interest in the said property.

C. It has been agreed by the parties that Mrs. Raj Rani Govil, Mrs. Anju Bhatnagar and Mrs. Chitra Choudhry shall provide their no-objection to Mr. Ajay Govil and Mr. Deepak Govil in such form and manner as may be requested for the purpose of mutation of the said property in the joint names of the Mr. Ajay Govil and Mr. Deepak Govil respectively.

D. It has been agreed between the parties that during the lifetime of Mrs. Raj Rani Govil, Mr. Ajay Govil and Mr. Deepak Govil shall permit Mrs. Raj Rani Govil to reside in the ground floor of the said property provided that Mrs. Raj Rani Govil shall not be permitted to create any rights, title or interest in and over the Ground Floor of the said property or permit to part with the possession of the Ground Floor of the said property to any person.

E. It has been agreed between the parties that Mr. Ajay Govil shall not, except with the prior written consent of Mr. Deepak Govil, create any rights in or over the said property including by way of charge, lien or security interest in favour of any person other than Mr. Deepak Govil or encumber, alienate or dispose of the said property or enter into any collaboration agreement, agreement to sell, power of attorney etc. with respect to the said property. Mr. Deepak Govil shall not, except with the prior written consent of Mr. Ajay Govil, create any rights in or over the said property including by way of charge, lien or security interest in favour of any person other than Mr. Ajay Govil or encumber, alienate or dispose off the said property or enter into any collaboration agreement, agreement to sell, power of attorney etc. with respect to the said property.

F. It has been agreed between the parties that Mr. Ajay

Govil and Mr. Deepak Govil shall pay the property tax as may be assessed by NDMC in respect of the said property in equal proportion.

G. It has been agreed between the parties that on and from the date of Memorandum of Settlement annexed with this Settlement Agreement, the HUF shall be deemed to have been dissolved by the parties. No member of the HUF whether, at present or in future, shall raise any dispute or make any claims or demands with respect to the said property.

H. It has been agreed between the parties that the HUF at present holds a bank account bearing No. 0359010066192 with the United Bank of India, Tansen Marg, New Delhi-110001. Mr. Ajay Govil and Mr. Deepak Govil shall take such steps as may be deemed necessary for the purpose of closure of the said bank account and for distribution of the proceeds amongst themselves. Mrs. Raj Rani Govil, Mrs. Anju Bhatnagar and Mrs. Chitra Choudhry shall not raise any claims on the proceeds arising from the closure of the aforesaid bank account.

I. It has been agreed between the parties that Mr. Ajay Govil and Mr. Deepak Govil shall further take such steps as may be necessary for the purpose of recording the dissolution of the HUF with the relevant tax authorities and shall jointly bear the costs and expenses for undertaking such dissolution.

J. Each of the parties acknowledge that the present Settlement Agreement has been executed by and between the parties out of their own free will and volition and without any fraud, coercion or undue influence. Neither of the parties shall raise any dispute in future with regard to the contents of the present Settlement Agreement or the physical or mental capacity of either party to understand the terms of this Settlement Agreement or the capacity to execute the present terms.

K. The present suit bearing CS (OS) No. 187/2016 shall be compromised in terms of the present settlement. That the present Settlement Agreement shall be filed in the Hon'ble High Court of Delhi for effecting a compromise decree in terms of the present settlement."

5. Having heard the learned counsel on both sides, this Court finds that the settlement arrived at by the parties is lawful. The application is allowed.

A decree in terms of the settlement is hereby passed leaving the parties to bear their own costs.

6. Decree sheet shall be drawn up accordingly.
7. The court fees shall be refunded.
8. The date (14.07.2017) fixed earlier stands cancelled. The pending applications, if any, having become infructuous, stand dismissed.

R.K.GAUBA, J.

MARCH 24, 2017

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