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

+ **CS(OS) 437/2016**

MRS BALJIT KAUR Plaintiff

Through: Ms. Namrata Arora, Adv.

Versus

MR RAJINDER SINGH & ORS Defendants

Through: Defendants no.1&2 in person.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **23.11.2017**

1. In this suit for partition of (i) property No.G-47, Nizamuddin West, New Delhi-110013; and, (ii) property No.D-10, DDA Shopping Centre, Vivek Vihar, Delhi-110095, a preliminary decree for partition was passed on 15th September, 2017 declaring the plaintiff and the three defendants to be having one-fourth share each in both the properties.
2. The counsel for the plaintiff states that the parties are finding buyers for both the properties and seeks adjournment till March, 2018.
3. The defendants no.1&2 viz. Rajinder Singh and Balbir Singh are also present in Court in person.
4. I have enquired whether not the properties, by virtue of their size, are incapable of division by metes and bounds.
5. The counsel for the plaintiff confirms.
6. Once the parties are ad-idem that the properties cannot be divided / partitioned by metes and bounds, there is no need to keep the suit pending and a final decree for partition by sale of the properties and distribution of sale proceeds as per respective shares of the plaintiff declared in the preliminary decree can be passed.

7. Accordingly, a final decree for partition of (i) property No.G-47, Nizamuddin West, New Delhi-110013; and, (ii) property No.D-10, DDA Shopping Centre, Vivek Vihar, Delhi-110095, is passed, of sale of the said properties and by distribution of sale proceeds amongst the parties as per their respective share declared in the preliminary decree.

8. It has also been agreed between the parties that i) either of the parties would be entitled to before putting the properties to sale to outsiders, exercise the right of purchasing the share of the others in either / both of the properties; ii) neither party will enter into possession of property No.D-10, DDA Shopping Centre, Vivek Vihar, Delhi-110095 which was in the tenancy of the bank and which bank is reported to have given a notice of vacation and neither party shall deal with the property; and, iii) the defendants no.1&2 who are in possession of property No.G-47, Nizamuddin West, New Delhi-110013 shall hand over vacant peaceful physical possession of the said property either to the party which purchases the said property or to any outside purchaser and if fail to do so, shall be liable to be evicted therefrom as if in pursuance to a decree for possession and neither party shall deal with the said property also in future save in terms of the decree.

No costs.

Decree sheet be prepared.

RAJIV SAHAI ENDLAW, J

NOVEMBER 23, 2017

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