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

+ RFA 948/2017 & CM Nos. 40657-59/2017

VINOD SINGH

..... Appellant

Through: Mr. H.M.Mukherjee and Mr. Abhinav
Shrivastava, Advocates.

versus

LAXMI DEVI & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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10.11.2017

1. This appeal is preferred against the two judgments and decrees.

The first judgment and decree is dated 3.2.2016 by which the suit for partition has been decreed and a preliminary decree passed giving each of the parties to the suit one-fourth share in the suit property. The second decree which is challenged is dated 30.5.2016 by which the trial court ordered that the property cannot be partitioned by metes and bounds but the same should be sold.

2. As per Section 2(2) CPC, a preliminary decree as also a final decree are two separate decrees and separate appeals have to be filed against separate decrees and not one appeal against two decrees. Counsel for the appellant therefore prays and is allowed to treat this appeal only as an appeal against the preliminary decree dated 3.2.2016.

3. After arguments, counsel for the appellant states that this appeal be disposed of as not pressed inasmuch as appellant is really aggrieved by a final decree dated 30.5.2016 and the appellant be given liberty to file an appeal against the judgment dated 30.5.2016 in accordance with law.
4. Accordingly, while disposing of this appeal as not pressed liberty is granted to the appellant, of course in accordance with law, to challenge the final judgment and decree dated 30.5.2016.
5. The appeal is accordingly disposed of.

VALMIKI J. MEHTA, J

NOVEMBER 10, 2017

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