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

+ **RSA 447/2015**

ANAND SHEEL AHUJA

..... Appellant

Through: Ms.Richa Kapoor and Ms.Seema
Patnaha, Advocates with Ms.Niti
Syal, Special Power of Attorney of
appellant.

versus

INDIRA CHAUDHARY

..... Respondent

Through: Respondent in person.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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20.02.2017

CM No.7001/2017

1. The above captioned application has been filed by the parties jointly seeking permission to place on record the Memorandum of Settlement dated 16th February, 2017 arrived at between the parties.
2. The Memorandum of Settlement is taken on record.
3. Application is disposed of.

RSA 447/2015 & CM No.31623/2015

1. This Regular Second Appeal has been preferred by the appellant impugning the common judgment dated 27th August, 2015 whereby the two appeals bearing RCA No.5/2015 (preferred by the respondent/defendant) and RCA No.8/2015 (preferred by the appellant/plaintiff) assailing the judgment dated 16th January, 2015 passed by learned Trial Court in Civil Suit No.273/2014, have been disposed of by the First Appellate Court.
2. The parties to this litigation are real brother and sister. The appellant/plaintiff Sh.Anand Sheel Ahuja is brother of respondent/defendant

Ms.Indira Chaudhary.

3. The litigation is going on over Flat No.142, DDA Flats, Rajouri Garden, New Delhi. This flat was allotted to Sh.Shiv Prasad Ahuja – father of the parties who executed Will dated 26th June, 2001 bequeathing this property to the appellant/plaintiff Sh.Anand Sheel Ahuja to the exclusion of his other two children namely Sh.Vigyan Sheel Ahuja (son) and Ms.Indira Chaudhary (daughter).

4. Civil Suit No.273/2014 filed by the appellant/plaintiff seeking the relief of injunction, possession and damages/mesne profits was decreed by the learned Trial Court vide judgment dated 16th January, 2015. Since both the parties felt aggrieved by the judgment passed by the learned Trial Court in Civil Suit No.273/2014, RCA No.5/2015 has been filed by the respondent/defendant Ms.Indira Chaudhary (sister) and RCA No.8/2015 has been filed by the appellant/plaintiff Sh.Anand Sheel Ahuja (brother).

5. Both the appeals were disposed of by the common judgment dated 27th August, 2015 whereby RCA No.5/2015 filed by respondent/defendant Ms.Indira Chaudhary (sister) was allowed and RCA No.8/2015 filed by the appellant/plaintiff Sh.Anand Sheel Ahuja (brother) was dismissed.

6. During the pendency of this appeal, the parties have entered into a settlement dated 16th February, 2017 which has been placed on record and exhibited today as Ex.C-1.

7. Ms.Richa Kapoor, learned counsel for the appellant submits that since the appellant/plaintiff Sh.Anand Sheel Ahuja is resident of U.K., his Special Power of Attorney Ms.Niti Syal is present today in the Court.

8. Ms.Niti Syal has also filed her affidavit today in the Court to the effect that on the date of execution of Special Power of Attorney i.e. on 21st

March, 2015, the appellant Sh.Anand Sheel Ahuja was present in Delhi and executed the Special Power of Attorney in her favour.

9. Ms.Richa Kapoor, Advocate for the appellant submits that the settlement arrived at between the parties vide Memorandum of Settlement dated 16th February, 2017 has been approved and confirmed by the appellant via e-mail which is annexed with the Memorandum of Settlement. She further submits that in respect of the Will executed by father of the parties, Sh.Vigyan Sheel Ahuja – another brother of the appellant and the respondent had already given an affidavit (which is placed at page No.239 of the appeal file) thereby not disputing the Will executed by their father,.

10. In view of the settlement arrived at between the parties, the decision of the both the Courts below i.e. judgment dated 16th January, 2015 passed by the learned Trial Court in Civil Suit No.273/2014 and common judgment dated 27th August, 2015 passed by the First Appellate Court in RCA Nos.5/2015 & 8/2015 are set aside. The Civil Suit No.273/2014 and RCA Nos.5/2015 & 8/2015 are disposed of as compromised in terms of the settlement entered into between the parties vide Memorandum of Settlement dated 16th February, 2017 Ex.C-1.

11. The RSA No.447/2015 is disposed of in above terms.

12. The parties shall be bound by the terms of the settlement Ex.C-1.

13. LCR be sent back alongwith copy of this order.

14. As prayed, copy of the order be given dasti to learned counsel for the parties.

PRATIBHA RANI, J.

FEBRUARY 20, 2017

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