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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 97/2017, IA No.2571/2017 (u/O XXXIX R-1&2 CPC) and
IA No.7074/2018 (u/O XXIII R-3 of the CPC).
DHIRAJ WIGH Plaintiff

Through: Mr. R.K. Sachdeva, Adv.

versus

MEERA WIGH & ORS Defendants

Through: Mr. Sunil Sehgal, Adv. for D-1&3.
Mr. Gaurav Dua, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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21.05.2018

1. The plaintiff has instituted the present suit for partition of property no.121, Golf Links, New Delhi ad measuring 375 sq. yds., in accordance with the Will dated 22nd March, 2003 of Shri Madan Lal Wigh.
2. Separate written statements were filed by the defendants no.1&2. No written statement was filed by the defendant no.3.
3. The plaintiff and the three defendants namely (i) Meera Wigh; (ii) Rajan Wigh; and, (iii) Monika Malhotra have now filed IA No.7074/2018 under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (CPC) and the counsel for the plaintiff, counsel for the defendants no.1&3 and the counsel for defendant no.2 support the application and state that the same is signed by their respective clients and is supported by their affidavits.
4. The parties in the application have stated that they have arrived at an oral Family Settlement, terms whereof have been recorded in a Memorandum of Family Settlement dated 15th May, 2018, and seek disposal of the suit in terms thereof.

5. I have informed the counsel that in that eventuality, there will not be executable decree of partition and the suit will be disposed of in terms of Settlement.
6. The counsel for the plaintiff has referred to *Nitin Jain Vs. Anuj Jain* AIR 2007 Delhi 219 and to *Padmawati Bhalla Vs. Sahil* 238 (2017) DLT 320 holding that the decree in such cases would be construed as a decree of declaration.
7. That is for the purpose of evaluating of the Stamp Duty / court fees on the decree.
8. Else, the compromise arrived at is found to be lawful and is allowed.
9. The suit is disposed of in terms of IA No.7074/2018 which shall form part of the decree sheet, leaving the parties to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

MAY 21, 2018

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