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

+ **RFA 297/2010**

YASH PAL SINGH

..... Appellant

Through: Mr. B.K. Sood & Mr. Harish Gaur,
Advocates (M-9811159947).

versus

NETREA PAL SINGH

..... Respondent

Through: Mr. Ajay Kr. Chopra & Ms. Nandita
Mishra, Advocates (M-9811104015).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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17.04.2018

CM APPL.14870/2018

This is an application under Order XXIII Rule 3 read with Section 151. The dispute is between brothers. They have settled their disputes in terms of paras 2 to 5 along with the site plan as attached with the application as Annexure- C/1. The terms of settlement in paras 2 to 5 are reproduced below:

“2. It is submitted that since filing of the present appeal, the parties to the suit have settled their inter se dispute in respect of suit property bearing no. 2018, Railway Road, Narela, Delhi, owned by father of the parties, Shri Chhattar Singh, who died on 10.07.1996. The mother of parties to the suit has also expired on 07.04.2013.

3. It is submitted that the parties to the suit unequivocally agree and admit that the Will dated 04.12.1990 left by their father was the last Will and testament and agree that the suit property be

partitioned between parties to the suit in equal shares in terms of said Will.

4. It is submitted that both the parties agree and have settled that the suit of the appellant be decreed in terms of the prayers made therein by decree of partition and the suit property be partitioned in terms of the plan filed herewith duly signed by both the parties, whereby the green portion has fallen to the share of the appellant and red portion has fallen to the share of respondent. As such, both the parties have thus become owners of their respective portions, without any objection or disturbance from other or anyone claiming under or through them. Both the parties are thus entitled to deal with their respective portions as owner thereof absolutely and without any objection from the other party or anyone claiming under or through them and thus would be entitled to deal with and enjoy their respective portions as owner thereof in all respects and thus would also be liable for their respective obligations in respect of said share.

5. It is submitted that the said settlement lawfully settles all the disputes and controversies between the parties to the suit/appeal in respect to the suit property, between the parties or the persons claiming under or through them, and said settlement between the parties has been arrived at without any coercion, undue pressure and duress. Both the parties agree that the later Will propounded by the respondent being dated 28.06.1995 is not to be relied upon and it is agreed that the Will dated 04.12.1990 was last and final Will of Late Shri Chhattar Singh, which as such is being acted upon.”

Both the brothers are present and they have been identified by their counsels. In view of the settlement, the suit is decreed in terms of paragraphs 2 to 5, contained in application and the suit property bearing No.2018, Railway Road, Narela, Delhi is partitioned in equal share as per the site plan

attached with the application as Annexure-C/1. The application under Order XXIII Rule 3 read with Annexure-C/1 shall form part of the decree. The suit is decreed in terms thereof. The appeal is disposed of as settled.

The decree sheet be prepared in accordance with the terms of the settlement.

The impugned judgment and decree is modified in terms of the settlement.

PRATHIBA M. SINGH, J

APRIL 17, 2018

Rahul