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

CS(OS) 1165/2010 & IA No.596/2018 (of the plaintiff u/O XXIII R 1 CPC)

INDRA KHANNA

..... Plaintiff

Through: Ms. Maldeep Sidhu, Mr. S. Chaudhry,
Ms. Priyanka Nayyar, Ms. Gunjan
Bansal, Advs.

versus

PAMELA KALRA & OTHERS

..... Defendants

Through: Ms. Pamela Kalra, D-1 in person.
Mr. Parag Chawla, Adv. for D-2, 4-7.
Mr. Samrat Nigam, Mr. Abhimanyu
Walia, Advs. for D-3.

+ CS(OS) 1169/2012 & IA 657/2018 (of the plaintiff u/O XXIII Rule 1 CPC)

AMITA BHANDARI

..... Plaintiff

Through: Mr. Samrat Nigam, Mr. Abhimanyu
Walia, Advs.

versus

SUNIL KALRA & ORS

..... Defendants

Through: Ms. Maldeep Sidhu, Mr. S. Chaudhry,
Ms. Priyanka Nayyar, Ms. Gunjan
Bansal, Advs. for D-7.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.03.2018

1. This order is in continuation of order dated 15th January, 2018 in CS(OS) 1165/2010 and order dated 16th January, 2018 in CS(OS) 1169/2012.

CS(OS) 1165/2010 & CS(OS) 1169/2012

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2. The counsel for Indra Khanna, the counsel for Sunil Kalra, Sheba Kalra, Karan Kalra, Aman Kalra and Shiela Devi and the counsel for Amita Bhandari state that in CS(OS) No.1165/2010, for partition, a settlement has been arrived at and two Memorandums of Settlement (MOSs) both dated 13th December, 2017 have been executed by the parties and in view whereof neither of the said parties are interested in pursuing CS(OS) 1165/2010 and CS(OS) No.1165/2010 be disposed of with liberty to any of the parties to file a fresh suit for partition if the defendants No. 2, 4 to 7 breach their obligations under the MOSs, of paying consideration to the others for acquiring shares of the others in the property.
3. It is further stated that after order dated 15th January, 2018 in CS(OS) 1165/2010, no settlement talks have taken place with Pamela Kalra.
4. The Advocate for Pamela Kalra does not appear. However, it is stated that she is present in person.
5. The person identified as Pamela Kalra states that adjournment be granted to enable her to arrive at a settlement.
6. No settlement having been arrived at since 15th January, 2018, adjournment is denied.
7. Pamela Kalra and the counsels for the other parties then stated that the matter be passed over to enable them to now work out a settlement. The matter was accordingly passed over.
8. Post lunch also, it is informed that no settlement could be arrived at.
9. At the same time, Pamela Kalra is not willing to pursue this suit for partition.

10. Thus, CS(OS) 1165/2010 has to be disposed of as sought, clarifying that just like the other parties have a right to sue for partition again if the MOSs are not implemented so will defendant No.1 Pamela Kalra, though not a party to MOSs, also have a right to sue for partition.

11. At this stage, Ms. Maldeep Sidhu counsel appearing for Indra Khanna states that she has authority from Pamela Kalra to state that Pamela Kalra will pursue CS(OS) No.1165/2010 for partition as plaintiff.

12. I have enquired from Ms. Maldeep Sidhu Advocate who is now appearing for Pamela Kalra, whether she is willing to undertake the responsibility to pursue CS(OS) No.1165/2010 inasmuch as the suit should not continue to languish as has been happening till now.

13. Ms. Maldeep Sidhu Advocate states that she is ready to pursue the suit.

14. On enquiry, it is told that CS(OS) 1165/2010 is ripe for final hearing.

15. Ms. Maldeep Sidhu Advocate however on being asked to argue, states that she needs time to prepare.

16. However, as far as CS(OS) 1169/2012 filed by Amita Bhandari alone, (i) for declaration as null and void of the MOU dated 26th October, 1988, the subsequent gift deed dated 2nd March, 2005 and subsequent documents based thereon; and, (ii) for permanent injunction, is concerned, the counsel for Amita Bhandari withdraws the same.

17. CS(OS) 1169/2012 is dismissed as withdrawn with liberty to revive the same in the event of the defendants No. 2, 4 to 7 in CS(OS) 1165/2010 failing in performance of their obligations under the MOSs dated 13th December, 2017.

18. It is informed that consolidated evidence, though in CS(OS) 1165/2010, was led in the two suits.
19. The file of CS(OS) 1169/2012, though disposed of, be retained along with file of CS(OS) 1165/2010.
20. List CS(OS) No.1165/2010 for hearing on 4th April, 2018.

RAJIV SAHAI ENDLAW, J

MARCH 08, 2018

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