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

+ W.P.(C) 5117/2018

SHRI OM PARKASH MANGOTRA AND ORS Petitioners
Through: Mr N.K. Kukreja, Advocate.

versus

UNION OF INDIA (THROUGH MINISTRY OF
URBAN DEVELOPMENT LAND AND
DEVELOPMENT OFFICE) Respondent
Through: Ms Saroj Bidawat, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **03.07.2018**

CM No. 19769/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioners have filed the present petition, *inter alia*, praying as under:-

“a) Allow this Writ petition; and

- b) issue an appropriate writ of certiorari or writ of mandamus or order or direction more particularly thereby directing the respondent no.1 for substituting the property bearing No.B/8-B, Kalkaji, New Delhi in the joint names of (1) Shri Om Parkash Mangotra (2) Shri Surinder Mohan, (3) Virender Kumar Mumwalia (on L.R. of late Smt. Swaran

Kanta) and (4) Tapin Bhagat (on L.R. of late Smt. Santosh Bhagat);and/or”

4. The petitioners claim to be the natural legal heirs of Sh. Amin Chand and his deceased wife.

5. Petitioner no.1 had filed the probate petition which was numbered as PC No. 514/2006 and titled as “Shri Om Prakash v. State and Ors”. Petitioner no.1 did not prevail in the said case as there were several objections to the Will propounded by petitioner no.1. Petitioner no.1 preferred an appeal before this Court – being FAO 259/2011 – which was also subsequently withdrawn in view of the settlement stated to have been arrived at between the legal heirs of late shri Amin Chand.

6. Petitioners claim that they have settled their *inter se* disputes and had arrived at a settlement whereby each one of the legal heirs is entitled to 1/4th share in the properties of Late Sh. Amin Chand.

7. The petitioners’ grievance is that although they have applied for the mutation in respect of the property bearing No. B/8-B, Kalkaji, New Delhi measuring 100 sq. yards, in their names, the respondents have refused to carry out the substitution. The respondents have declined the request made by the petitioners on the ground that the settlement arrived at between the petitioners has not been validated by any order passed by the Court.

8. The learned counsel appearing for the petitioners states that notwithstanding the settlement between the parties, the petitioners would be entitled to be substituted in place of Late Sh. Amin Chand/his widow as they are also the natural legal heirs of deceased Sh. Amin Chand and his

deceased widow. It is stated that the settlement arrived at between the parties merely records their agreement that the assets of sh. Amin Chand would be divided in the same manner as if the widow of Sh. Amin Chand had not left any Will. The learned counsel for the petitioners submits that in view of the above, the petitioners would be entitled to be substituted in the records of the petitioner.

9. The learned counsel appearing for the respondent submits that if an affidavit to the aforesaid effect and all necessary documents are filed, the respondent would consider the same and carry out the necessary substitution as per law.

10. In view of the above, it is directed as under:

(a) The petitioners may file all necessary documents with the respondent authority to establish that the petitioners are the only legal heirs of the deceased Sh. Amin Chand and his wife, and are entitled to the property of Late Sh. Amin Chand in equal measure. The petitioners are also at liberty to file such documents as necessary to establish that the petitioners had also agreed *inter se* to abide by such distribution;

(b) If such documents are filed within a period of two weeks from today, the respondent shall take necessary steps within a period of six weeks thereafter.

11. The learned counsel for the petitioners submits that there is a minor error in the memo of parties inasmuch as the name of Shri Tapin Bhagat has not been mentioned as petitioner no.4. He is permitted to file the amended memo of parties within a period of one week from today.

12. The petition is disposed of with the aforesaid directions.
13. Order *dasti*.

JULY 03, 2018
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VIBHU BAKHRU, J