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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 201/2016 & IAs No.5331/2016 (u/O XXXIX R-1&2 CPC),
14683/2017 (of D-1 u/O VII R-11 CPC), 14684/2017 (of D-1 u/O
XXXIX R-4 CPC) & 14685/2017 (for condonation of 130 days delay
in re-filing)

VIMAL SINGLA & ANR Plaintiffs

Through: Mr. Abhinav Bajaj, Adv.

Versus

PAWAN GUPTA & ORS Defendants

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **15.11.2018**

1. This order is in continuation of the earlier order dated 22nd October, 2018.
2. None appears for the defendant no.1.
3. The counsel for the plaintiffs states that the defendants no.2&3 had already relinquished their share in the property in favour of the defendant no.1.
4. In the absence of the defendant no.1, *inter se* bidding as proposed in the order dated 22nd October, 2018 cannot be conducted.
5. The counsel for the plaintiffs, on enquiry states that no appeal has been preferred by either party against the order dated 22nd October, 2018.
6. The counsel for plaintiffs also states that perhaps the defendant no.1 is not interested and/or is not capable of purchasing the shares of the plaintiffs. He also states that the plaintiffs also are incapable of so purchasing but have found a third party buyer who is willing to purchase the entire property with

vacant peaceful physical possession thereof for a total consideration of Rs.1,60,00,000/- and the property be ordered to be sold to the said buyer.

7. The same cannot be permitted at this stage.

8. The only option is to pass a final decree of partition of sale of the property and distribution of the sale proceeds amongst the parties as per their respective shares declared in the preliminary decree dated 11th January, 2018 of partition.

9. A final decree of partition of property no.E-3, Sushila Road, Adarsh Nagar, Delhi – 110 033 is accordingly passed, of sale of the property and of distribution of sale proceeds amongst the plaintiffs no1&2 and the defendant no.1 as per their respective shares declared in the preliminary decree dated 11th January, 2018 of partition of the said property.

10. The counsel for the plaintiffs, on enquiry states that the defendant no.1 along with his family members is residing in the property and perhaps has also inducted a tenant in a portion of the property.

11. The parties are restrained from alienating, encumbering or parting with possession of the property save in execution of in accordance with this decree for partition.

12. Whosoever is in possession of the property, if in pursuance to the sale does not deliver vacant peaceful physical possession of the property, shall be liable to be ejected therefrom as if in pursuance to decree for recovery of possession.

13. The parties are left to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 15, 2018/‘pp’..

CS(OS) 201/2016

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