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

+ CS(OS) 240/2018 and I.A. Nos.6875/2018(stay), 6876/2018
(exemption) & 6877/2018 (under Order 11 Rule 1 CPC)

CHAKRADHARI SUREKA Plaintiff
Through: Dr. Jose P. Verghese, Advocate.

versus

VISHNU KUMAR SUREKA AND ORS Defendants
Through

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **17.05.2018**

1. It is noted that suit is filed for partition of the alleged HUF properties. Prayer clause is completely vague because prayer clause only states that HUF properties “described above” be partitioned.

2. First of all a prayer clause cannot be vague because Court has to decree the suit on the basis of the prayer clause or clauses. Secondly even if vagueness in the prayer clause is overlooked the plaint does not set out exactly in seriatim which property is HUF and how. In a cause of action pleading partition of HUF properties, it has to be pleaded as to which properties are HUF and how each of the properties are HUF because the suit will lie for partition of HUF properties and no other.

3. At this stage, counsel for the plaintiff states that he be permitted to withdraw the suit with liberty to file a fresh suit which will have complete details of cause of action with respect to each of the properties which is claimed as an HUF property and the prayer clause of the suit will also be properly framed to claim reliefs of partition etc with respect to the specific HUF properties.

4. Though this suit is allowed to be withdrawn with liberty to file a fresh suit as stated above, it is however made clear that in the fresh suit to be filed the plaint will be exhaustive with respect to how each property which is alleged to be an HUF property is pleaded to have become an HUF property with the fact that prayer clause will be properly worded. Mention of the present order will also be made in any subsequent suit which will be filed on behalf of the plaintiff seeking partition of the properties which are stated to be HUF properties.

VALMIKI J. MEHTA, J

MAY 17, 2018

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