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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 2877/2011 & IAs No.18476/2011 (u/O XXXIX R-1&2 CPC),
15353/2013 (u/S 151 CPC), 21266/2014 (u/S 151 CPC) &
23187/2015 (u/S 151 CPC)
S. GURDEEP SINGH Plaintiff

Through: Dr. Sarbjit Sharma and Dr. Sumit
Sharma, Advocates.

Versus

S. SURINDER SINGH & ANR Defendants

Through: Mr. Anil Sharma, Mr. Gurpreet Singh
and Mr. Jaskaran Singh, Advcoates
for D-1 and D-3 to 5.
Mr. Omprakash with Mr. Pradeep
Kumar Tripathi, Advocates for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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10.01.2018

1. In this suit between the plaintiff and the two defendants, all sons of S. Attar Singh, for partition of property No. 38, Pusa Road, New Delhi, the parties were referred to mediation and a Settlement Agreement dated 12th September, 2013 was signed by the parties to this suit, their other family members, their respective counsels, Mini Babbar and Jagwinder Singh to whom the plaintiffs agreed to sell the property and by Ms. Vaishalee Mehra, Advocate/Mediator.

2. In the said Settlement Agreement, the shares of the parties in the property aforesaid were agreed as under:

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| i) S. Gurdeep Singh (Plaintiff) | 30% |
| ii) S. Surinder Singh (Defendant No. 1) | 30% |
| iii) S. Jaswant Singh (Defendant No. 2) | 40% |

3. However, till date, neither preliminary decree nor final decree for partition in terms of the said Settlement Agreement has been passed.
4. In the interregnum the defendant No.1 S. Surinder Singh has died and amended memo of parties impleading his wife Amarjit Kaur and his sons Tejinder Pal Singh, Ujinder Pal, Kawaljeet and Amardeep, in his place, has been filed.
5. The counsels state that the suit is still pending because the parties were attempting to sell the property and to distribute the sale proceeds as per their shares as agreed but the said sale transaction ran into trouble.
6. The counsel for the plaintiff, today states that another buyer has stepped into the shoes of the earlier buyer and the plaintiff has signed an agreement with the said new buyer in respect of his share in the property.
7. The counsel for all the legal heirs of the deceased defendant No. 1 S. Surinder Singh states that S. Surinder Singh has left a will in favour of his wife Amarjit Kaur and the share of S. Surinder Singh in the property in the said will goes to the said Amarjit Kaur only.
8. At this stage, two persons present in the Court who have disclosed their names as Tejinder Pal Singh and his wife Manpreet Kaur interrupt and state that they also have a share in the property and do not admit that the deceased defendant No. 1 S. Surinder Singh left any Will in favour of his wife Amarjit Kaur.
9. It is explained that Tejinder Pal Singh is the son of the defendant No.1 S. Surinder Singh from his first wife, after whose demise, the defendant No.1 married Amarjit Kaur and from which wedlock Ujinder Pal, Kawaljeet and Amardeep were born.

10. The Settlement Agreement in Clause 6(vii) thereof records that the said Tejinder Pal Singh has entered into separate Memorandums of Understanding (MOUs) with the plaintiff Gurdeep Singh and the defendant No.1 S. Surinder Singh who was then alive and will be receiving monetary compensation as stated therein in lieu of surrendering possession of his portion of the property

11. Else, the Settlement Agreement records the shares as aforesaid.

12. Mr. Jeginder Pal Singh also states that Mr. Anil Sharma, Advocate appearing for the all legal heirs of S. Surinder Singh does not represent him.

13. The disputes inter se be the legal heirs of the defendant No.1 S. Surinder Singh cannot come in the way of a preliminary decree for partition and a final decree for partition being passed in this suit.

14. As far as the contention today of Tejinder Pal Singh in person is concerned, Tejinder Pal Singh is admittedly a signatory to the Settlement Agreement and will remain bound thereby.

15. Though the separate MOUs referred to in Clause 6(vii) supra of the Settlement Agreement are not before the Court but it is deemed appropriate to grant liberty to Tejinder Pal Singh to agitate his grievance if any, in a separate proceeding.

16. The counsel for Amarjit Kaur and her children and the counsel for the defendant No.2 also state that they have not signed any agreement with the new buyer.

17. Again, this Court in this suit is not concerned with the disputes which may arise the sale in pursuance to the final decree for partition and the said disputes with respect to sale also have to be adjudicated separately.

18. Accordingly, a preliminary decree for partition, declaring the shares of the parties in terms of the Settlement Agreement dated 12th September, 2013 and a final decree for partition of sale of the property No.38, Pusa Road, New Delhi and the distribution of the sale proceeds in accordance with the shares agreed to in the Settlement Agreement is passed, leaving the parties to bear their own costs.

19. Decree sheet be drawn up. Settlement Agreement dated 12th September, 2013 and this order to form part of decree sheet.

RAJIV SAHAI ENDLAW, J.

JANUARY 10, 2018

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