

\$~14

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

+ **CS(OS) 1344/2015 & I.A.No.10040/2015**

SMT. NEENA KUKKAR

..... Plaintiff

Through

Mr.Raghav Vasishth with Mr.Utkarsh
Goel, Advocates.

versus

SH. DHARM PAL SONI & ORS.

..... Defendants

Through

Mr.Praveen Suri, Advocate for D-1
to 4.

%

Date of Decision: 20th November, 2018

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Even at the pass over stage, learned counsel for the plaintiff prays for an adjournment on the ground that the arguing counsel Mr.Swastik Singh Solaki is in the trial court.
2. A perusal of the paper book reveals that the plaintiff's evidence was closed on 06th December, 2016 and as the defendants were *ex parte*, the matter was placed before the Court.
3. Thereafter, the matter had been adjourned on four occasions at the request of learned counsel for the plaintiff.

4. Keeping in view the fact that no hearing in the present case has taken place since 06th December, 2016, the prayer for adjournment is declined.
5. Mr. Raghav Vasishth, learned counsel appearing for the plaintiff states that he has no instructions in the present case.
6. A perusal of the plaint reveals that though it is the case of the plaintiff that the suit property is an ancestral HUF property (para no.4), yet in the plaint itself it has been mentioned that the grandfather of the plaintiff had partitioned all his properties amongst his legal heirs in 1977-78 (para 5).
7. This Court is of the opinion that in view of the admitted position that a partition had taken place, the co-parcenary has come to an end.
8. It is settled law that when partition of the co-parcenary takes place and share of the members gets ascertained, the co-parcenary dissolves and, thereafter any branch-wise division does not exist under Hindu law.
9. The essence of co-parcenary under the Mitakshara Law is unity of ownership and once there is partition, unity of ownership is destroyed/dissolved.
10. Consequently, this Court is of the view that the present suit for partition is not maintainable. Accordingly, the present plaint is rejected.

MANMOHAN, J

NOVEMBER 20, 2018
KA