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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA 2/2015, CM APPL.38691/2017 & CM APPL.38692/2017**
MANGAL Appellant

Through: Mr. M. Hasibuddin, Advocate.
(M-9810468429)

versus

SUKHRAJI & ORS Respondents
Through: Mr. S. S. Choudhary, Advocate for R-
1. (M-9871450670)
Ms. Arati Mahajan Shedha and Mr.
Manoj Kumar, Advocates for R-3.
(M-9810596166)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **21.05.2018**

1. The present appeal relates to property bearing No.1/128, CPJ, New Seelampur, Delhi-53 (*hereinafter `suit property`*). By the preliminary judgment and decree dated 10th November, 2014, the suit was decreed in favour of the Plaintiff and against the Defendant and a decree for possession was also passed. The Plaintiff was held to be a joint owner of the suit property vide final decree dated 5th September, 2017. The final decree has been passed in the following terms.

“In these circumstances, it is hereby ordered that the suit property bearing No.1/128, CPJ, New Seelampur, Delhi-110053, be sold through Court auction and its sale proceeds be divided amongst all the parties, as per their determined shares. The property shall be sold at an amount not less than the Government Circle Rate,

prevailing in the area.

The parties are permitted to participate in the auction proceedings, to purchase the same, if their bid is found to be the highest. All the expenses, incurred for the auction proceedings, shall be deducted from the sale proceeds and thereafter the balance shall be divided between the parties, as per their determined shares. All the parties, whosoever, are in the possession of the suit property, have to vacate the same and to handover its possession to the highest bidder. In case, the parties settle themselves out of the Court, in any manner, and sell or purchase the shares of each other, after fixing the market value with consent, then there will not be any requirement for public auction.”

2. The Appellant - Sh. Mangal, Respondent No.1- Smt. Sukhradi, Respondent No.2 - Sh. Nand Lal, and Respondent No.3 -Sh. Jawahar are present in Court today. The other two sisters Smt. Vidya - Respondent No.4 and Smt. Shanti Devi - Respondent no. 5 are ex-parte. In fact Respondent No.5 is stated to have passed away six months back.

3. Vide order dated 3rd July, 2015, parties were directed to maintain status quo as to possession and title and the said order was made absolute on 29th January, 2016.

4. On 16th February, 2018, parties were sent to the Delhi High Court Mediation and Conciliation Centre where some discussions took place and broadly the matter was resolved. However, the final settlement agreement was not filed before this Court.

5. Parties are present before Court and agree that they have settled their disputes on the following terms and conditions: -

i) The parties agree that the value of the property is to be taken as

Rs.15,60,000/-. The said amount is to be divided amongst the six legal heirs. i.e. the Appellant and Respondent No.1 to 5.

ii) Sh. Mangal and Sh. Nand Lal are in possession of the property and for retaining the said possession, they shall pay a sum of Rs.2,60,000/- each to Smt. Sukhraj and Sh. Jawahar.

iii) Both Smt. Sukhraj and Sh. Jawahar confirm that upon receipt of the amount of Rs. 2,60,000/-, they shall not have any right, title or interest in the suit property.

(iv) Any payment to be paid to Smt. Vidya or Smt. Shanti Devi or their legal heirs shall be the responsibility and joint liability of Sh. Mangal and Sh. Nand Lal.

(v) All parties present confirm that Rs.10,000/- has already been paid by Sh. Mangal and Sh. Nand Lal to Smt. Sukhraj and Sh. Jawahar. The balance amount of Rs.2,50,000/- each, is being handed over today partly by demand draft and partly by cash to Smt. Sukhraj and by demand draft to Sh. Jawahar.

6. The Demand Draft for the sum of Rs. 2,50,000/- dated 17th May, 2018, bearing no. 584655, drawn on Syndicate Bank, Shahdara, Delhi 32, given to Sh. Jawahar may be deposited by him in his pension account which is in the name of 'Jawahar Lal' in State Bank of India, Welcome (Seelampur), Delhi. His Aadhaar number is 682258807977. The Bank, upon presentation of the Demand Draft is directed to accept the same and credit the amount to the said account.

7. The execution proceedings filed before the Trial Court shall be disposed of as infructuous in view of the present settlement.

8. The preliminary judgment/decreed as also the final judgement/decreed

stand modified in terms of the present settlement. The settlement terms as set out in this order shall form part of the decree. Decree sheet be drawn accordingly.

9. All parties agree and undertake to abide by the terms of the settlement. The said undertakings are accepted.

10. The appeal is disposed of as settled.

11. Sh. Mangal, Sh. Nand Lal, Smt. Sukhraj and Sh. Jawahar have appended their signatures hereinbelow, accepting the terms of settlement.

12. The original demand drafts have been handed over to the Respondents who are present in Court.

PRATHIBA M. SINGH, J.

MAY 21, 2018

Rekha