

#19 & 20

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 21.05.2018

RFA(OS) 49/2017

BALBIR SINGH

..... Appellant

versus

BALJIT KAUR & ORS

..... Respondents

RFA(OS) 51/2017 & CM Nos. 47235/2017 (for placing additional documents on record) & 47236/2017 (stay)

BALBIR SINGH

..... Appellant

versus

BALJIT KAUR & ORS

..... Respondents

Advocates who appeared in this case:

For the Appellants : Mr. Deepak Agarwal, Advocate along with appellant.

For the Respondents : Mr. S.M. Chugh, Advocate along with respondent No. 1.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

CM No. 45024/2017 (delay) in RFA(OS) 49/2017

The present application under Section 5 of the Limitation Act 1963 read with Section 151 of the Code of Civil Procedure, 1908, instituted on

behalf of the applicant/appellant seeks condonation of 20 days' delay in filing the accompanying appeal.

Issue notice. Mr. S.M. Chugh, learned counsel appearing on behalf of the non-applicants/respondents accepts notice and does not oppose this application.

In view of the foregoing and for the reasons stated in the application, which is duly supported by an affidavit, the same is allowed. The delay of 20 days in filing the accompanying appeal is condoned.

The application is disposed of accordingly.

CM No...../2018 (u/O XXIII Rule 3 r/w Section 151 CPC filed on behalf of the parties for recording of compromise) in RFA(OS) Nos. 49/2017 & 51/2017

The joint application instituted on behalf of the parties be registered and taken on record.

1. By way of this application under the provision of Order XXIII Rule 3 read with Section 151 of the Code of Civil Procedure, 1908, the parties seek to place on record the compromise arrived at by and between them and further pray that the appeals be disposed of, in terms thereto.

2. A perusal of the application reflects that the terms of the settlement by and between the parties are as under:-

“4. That the terms of settlement are as under:-

4.1 That it is mutually agreed between the parties to the appeal that preliminary decree dated 15.09.2017 shall be modified to the extent that the property bearing No.G-47, Nizamudin West, New Delhi-110013 alongwith the superstructure constructed there upon (hereinafter referred to as “the said property”) shall now be owned by parties to the present appeal as per the shares mentioned herein below:

(a) Shri Balbir Singh shall be the owner of 37.5% undivided share in the said property.

(b) Shri Rajinder Singh shall be the owner of 37.5% undivided share in the said property.

(c) Smt. Baljit Kuar shall be the owner of 12.5% undivided share in the said property.

(d) Smt. Gurcharan Kaur shall be the owner of 12.5% undivided share in the said property.

4.2 That all the parties to the appeal has agreed that property bearing No.D-10, DDA, Shopping Centre, Vivek Vihar, Delhi-110095 shall be jointly owned by the all the parties to the appeal to the extent of 25% undivided share each in terms of Preliminary Decree dated 15.09.2017.

4.3 That it is also mutually agreed between the parties to the appeal that after passing of the present compromise decree, the property bearing No.G-47, Nizamudin West,

New Delhi-110013 alongwith the superstructure constructed there upon shall not be treated as a HUF property and shall be treated as self acquired property in the hands of the respective parties to the appeal.

4.4. That the parties to the appeal do not have any other claim against each other and will not initiate any other or further litigation against each other qua the estate of Late Shri Sardar Kartar Singh.

4.5 That the present compromise has been arrived at between the parties on their own free volition and without any force, fraud, pressure or coercion from any quarter whatsoever and the present compromise application has been signed by the parties after fully understanding the contents of this application and the parties undertake to remain fully bound by the contents of the present compromise application.

5. That the parties to the present appeal have compromised their disputes in above noted terms and therefore, it shall be in the interest of justice that the compromise between the parties is recorded by this Hon'ble Court."

3. It is observed that the parties to the appeals are siblings and that the appeals had been instituted by the appellant feeling aggrieved by the preliminary decree dated 15th September, 2017 and final decree dated 23rd November, 2017, respectively.

4. A perusal of the application reveals that the terms and conditions of the settlement are lawful. The parties have appended their signatures to the

present application, which is also duly supported by affidavits, in support thereof on their behalf. In view of the foregoing, the present application is allowed. The compromise between the parties is taken on record and exhibited as Ex.C-1 and the appeals are disposed of in terms thereto. The impugned preliminary decree dated 15th September, 2017, as well as, the final decree dated 23rd November, 2017, will stand modified accordingly. The parties are, however, directed to comply with their reciprocal obligations under the compromise without demur.

5. The appeals are disposed of as having been compromised. Pending applications also stand disposed of. Decree sheets be prepared in terms of the settlement.

SIDDHARTH MRIDUL
(JUDGE)

DEEPA SHARMA
(JUDGE)

MAY 21, 2018
RS