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

+ RFA 97/2019 & CM Nos. 5154-55/2019

GEETA DEVI & ORS

..... Appellants

Through: Mr. Vinod K. Srivastava and Ms.
Kamini Srivastava, Advocates
(7011378216)

versus

RAJINDER KUMAR & ORS

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **04.02.2019**

1. This appeal is disposed of as not pressed as to the counsel for the appellants notice has been brought of the Full Bench judgment of this Court in the case of *Indu Singh and Anr. Vs. Prem Chaudhary and Ors. 2018 (170) DRJ 1; 2018 (6)AD Delhi 233*, and which holds that when with respect to a partition suit a final decree is passed directing auction sale of the property, such final decree will have to be embossed on a non-judicial stamp paper as per Article 45 Schedule 1 of the Stamp Act. Accordingly, since the issue of a final decree directing auction requiring to be stamped stands settled by the Full Bench Judgment in the case of *Indu Singh (supra)*, this

appeal is not pressed by challenging that the final decree should not be on a non-judicial stamp paper as per Article 45 Schedule 1 of the Stamp Act. However, the counsel for the appellant is justified in arguing that the final decree for partition will not have to be registered as per Section 17 of the Registration Act because a property which is the subject matter of the suit, and with respect to which a partition decree is passed, does not have to be registered, and this is clearly provided in Section 17(2)(vi) of the Registration Act which provides that any decree or order of a Court needs to be registered only if the same encompasses the properties which are not the subject matter of the suit. This section has apparently escaped the attention of the learned trial court. Accordingly, it is observed that the final decree dated 14.12.2018 need not be registered under the Registration Act.

2. The appeal is accordingly disposed of with the aforesaid observations.

VALMIKI J. MEHTA, J

FEBRUARY 04, 2019

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