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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(OS) 127/2019**  
**ASHISH KAPOOR** ..... Plaintiff  
Through: Mr. O.P.Saxena, Adv.

versus

**PARAMJEET KAPOOR AND OTHERS** ..... Defendant  
Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **07.03.2019**

**IA No.3245/2019(for exemption)**

1. Allowed subject to just exceptions.
2. Application stands disposed of.

**CS(OS) 127/2019 & IA No.3244/2019(u/O.XXXIX R- 1 & 2 CPC)**

3. Partition is sought of property No.22A, Shivpuri Extension, Delhi claiming the same to be of the paternal grandfather of the plaintiff and who was the father of the defendant no.1 (defendants 2 and 3 are mother and sister of the plaintiff and have no interest adverse to the plaintiff). Rendition of accounts is sought of the business of M/s. Prem Enterprises at Kashmere Gate, Delhi, stated to be joint business of father of the plaintiff and the defendant no.1.
4. Neither has any document been filed to show that the property belonged to the paternal grandfather of the plaintiff nor to show that the business of M/s. Prem Enterprises was joint business of the

defendant no.1 and father of the plaintiff or that the father of the plaintiff had any share whatsoever in the said business. Moreover, the father of the plaintiff died as far back on 26<sup>th</sup> August, 2001 i.e. nearly 18 years prior to institution of the suit and there is no explanation as to why the plaintiff or the defendants 2 and 3, in the last 18 years, claimed any right with respect to the property or share, if any, of the father of the plaintiff in the said business.

5. Though the counsel for the plaintiff states that the plaintiff and defendants no.2 and 3, till the demise of paternal grandmother of the plaintiff who died on 13<sup>th</sup> January, 2019 were residing in the property, but there is no averment in the plaint that the plaintiff and the defendants 2 and 3 were so residing in the property aforesaid till then and as to why they left the property.

6. The plaint does not show the entitlement of the plaintiff to the relief sought. Though the plaint is liable to be rejected for this reason only but since the plaintiff has paid court fees of Rs.42,100/-, opportunity is given to the plaintiff to make amends and to show that the plaintiff and the defendants 2 and 3 indeed have a share of which partition is sought and/or of which accounts are claimed.

7. List on 10<sup>th</sup> April, 2019.

**RAJIV SAHAI ENDLAW, J**

**MARCH 07, 2019**

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