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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 25/2016**
MAJOR SAUMITRA SARKAR (RETD) Plaintiff
Through: Mr. Mohit Kumar, Adv. along with
plaintiff in person.
versus
SHIKHA CHAKRABORTY & ORS Defendants
Through: Ms. Rohini Prasad, Adv. for D-
1,2,4&6.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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31.01.2019

1. The plaintiff instituted this suit, as per amended plaint on record, against the eight defendants namely (i) Shikha Chakraborty; (ii) Sumitra Gupta; (iii) G.R.Ghosh; (iv) Sumitra Gupta; (v) H. Jagwani; (vi) Amalendu Ray; (vii) Manju Majumdar; and, (viii) Chandana Dey, for permanent injunction restraining the defendants from obstructing or restricting the plaintiff from accessing the terrace of property no.I/1782, Chittaranjan Park, New Delhi and/or from interfering with the lawful construction to be raised by the plaintiff thereon.
2. The counsel for the plaintiff and the counsel for the defendants no.1,2,4&6, for the last two dates have been seeking adjournment to file a settlement arrived at between the said parties.
3. The counsel for the plaintiff and the counsel for the defendants no.1,2,4&6 (of which defendants no.2&4 are the same person) have in Court today handed over a Settlement Agreement dated 31st January, 2019 stated to have been signed by the plaintiff and the defendants no.1,2,4&6. The

same is taken on record.

4. On enquiry as to the status qua the other defendants, it is stated that a settlement has already been arrived at in the past with the defendants No.5,7&8 and the suit against defendants no.5&7 does not survive. With respect to defendant no.3 G.R. Ghosh it is stated that he died long back but the plaintiff has been unable to find out his legal heirs and no steps have been taken for substitution of legal heirs of defendant no.3 G.R. Ghosh.

5. I have perused the settlement arrived at between the plaintiff on the one hand and the defendants no.1,2,4&6 on the other hand. Though the settlement is found to be lawful but it is felt that several parts of the settlement/compromise are incapable of execution if a decree were to be passed in terms thereof.

6. The counsels state that the settlement has been arrived at by the parties themselves without legal assistance.

7. In the circumstances, though decree is passed in terms of Settlement Agreement dated 31st January, 2019 but with the condition that whichever part of the said decree, in the execution if any filed is found to be incapable of execution and requiring further adjudication, will be excluded from the execution at the appropriate stage.

8. As far as the defendant no.3 G.R. Ghosh is concerned, the plaintiff having not substituted the legal representatives of the said defendant within the prescribed time, the suit against the said defendant is disposed of. The same will however not preclude the plaintiff from in future claiming the same relief as claimed in this suit against the legal heirs of the defendant

no.3 G.R. Ghosh.

9. No costs.

10. Decree sheet in terms of Settlement Agreement dated 31st January, 2019 be drawn up.

RAJIV SAHAI ENDLAW, J

JANUARY 31, 2019

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