

\$~O-20

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

%

Date of Decision: 29th January, 2019

+ CS(OS) 1302/2012 & I.A.1993/2017, 6915/2017, 6916/2017,
1304/2019

JAGJIT SINGH

..... Plaintiff

Through : Mr.Harkirat Singh, Mr.Neeraj
Advocates

versus

GURMIT SINGH &ORS

..... Defendants

Through : Mr.Rajiv Bakshi, Advocate

J U D G E M E N T (O R A L)

1. Vide order dated 03rd May, 2013, this Court passed the preliminary decree of partition whereby the plaintiff and the three defendants were declared as having 1/4th undivided share in property bearing No.90, Engineers Enclave, Pitampura, Delhi-110034 and T-2342, Faiz Road, Karol Bagh, Delhi-110005.

2. Para 20 of the order dated 03rd May, 2013 is reproduced hereunder:

“20. Accordingly, a preliminary decree for partition of, (i) Built-up House Property No.90, Engineers Enclave, Pitampura, Delhi-34, admeasuring 192 sq. yds. (approximately) Ground Floor built only and (ii) Built-up House Property No.T-2342, Faiz Road, Karol Bagh, Delhi-05, admeasuring 90 sq. yds. (approximately) Ground Floor built only, is passed declaring the plaintiff and three defendants to be having 1/4th undivided share therein.”

3. Vide order dated 20th May, 2014, this Court appointed a Local Commissioner to visit the suit properties and suggest the modes of the partition. The learned Local Commissioner has submitted the report according to which the suit properties cannot be divided by metes and bounds.
4. Learned counsel for the plaintiff submits that the existing ground floor of property bearing No.90, Engineers Enclave, Pitampura, Delhi-110034 be demolished and stilt parking on the ground floor along with four floors be constructed with the help of a mutually agreed builder on both the aforesaid properties. The second suggestion of the plaintiff is to sell the property bearing No. T-2342, Faiz Road, Karol Bagh, Delhi-110005 and the sale consideration be utilized to build the four floors on Pitampura property and each party will get one floor.
5. The proposal of the plaintiff for reconstruction of the suit properties is not acceptable to the defendant.
6. This Court is satisfied that the suit properties cannot be divided by metes and bounds.
7. The final decree of partition of properties bearing No.90, Engineers Enclave, Pitampura, Delhi-110034 and T-2342, Faiz Road, Karol Bagh, Delhi-110005 is passed for sale of the aforesaid properties and distribution of the sale proceeds amongst the parties as per their respective shares declared in the preliminary decree of partition.
8. The parties are at liberty to do *inter se* bidding failing which the parties are at liberty to execute the decree for sale of the suit properties and distribution of the sale proceeds according to their shares.

9. Pending applications are disposed of.
10. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

JANUARY 29, 2019
dk

