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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 3171/2014**

M/S BRIJWASI INFRATECH PVT LTD Plaintiff

Through Ms. Shalini Kapoor with Mr.
Dikshant Khanna, Adv.
(M:9810160155)

versus

VIKAS JAIN Defendant

Through Mr. Hemant Gupta, Adv.
(M:9899009971) with defendant in
person

CORAM:
JUSTICE PRATHIBA M. SINGH

% **ORDER**
26.03.2019

IA No.4325/2019

1. The present I.A. has been moved seeking correction in the order dated 31st October, 2018 in paragraph 4. It is submitted that in the said paragraph it is inadvertently recorded that Smt. Shakuntala Jain has passed away intestate, whereas in fact she had left behind a Will, by which the property had reverted back to her husband Sh. Tej Kumar Jain. Accordingly, the word 'intestate' is deleted from paragraph 4. In the same paragraph, in one place, the name of Sh. Tej Kumar Jain has, inadvertently, been mentioned as Sh. Tej Kumar Singh. Let the corrections be carried out. The corrected paragraph 4 shall read as under:

"4. The admitted position as on date, is that the Plaintiff has purchased 3/4th share of the property from

*Sh. Manoj Jain, Sh. Arun Jain and Smt. Kiran Mala Jain who trace back their title to Sh. Jagjot Singh Jain and Sh. Ramesh Chand Jain. 1/4th of the property remained with Sh. Tej Kumar Jain. Sh. Tej Kumar Jain sold his share of the property to his wife - Smt. Shakuntala Jain vide sale deed dated 2nd January, 1991. **Smt. Shakuntala Jain passed away on 30th October, 2000.** She left behind four sons and one daughter. One of them is Sh. Vikas Jain, who is the Defendant in the present suit. **It is also agreed between the parties that Defendant owns 1/4th share of 1/4th share of Sh. Tej Kumar Jain i.e. 1/16th of the suit property.** The remaining shares have already been acquired by the Plaintiff”*

2. In view of the above corrections, this order be uploaded as a corrigendum to the judgment dated 30th October, 2018. IA is disposed of.

IA No.4323/2019

3. This is an application seeking exemption from filing certified copy of the order dated 30th October, 2018. The same is allowed. I.A. is disposed of.

IA No.4322/2019

4. The Defendant has placed on record valuation report of an independent Government recognised valuer. The present application is filed praying for taking the said report on record. A preliminary decree has already been passed in this matter determining the Defendant's share as 1/16th in the suit property. The matter is pending for passing of final decree. The court had appointed a valuer who has submitted his report. The Defendant has filed objections to the said report and has filed another valuation report. Since the final decree is yet to be passed and the valuations would have to be considered, the valuation report filed by the Defendant is taken on record. Plaintiff's submissions/objections in respect thereof are

kept open. I.A. is disposed of.

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5. Ld. Counsel for the Plaintiff submits that the valuation of the property, as per the report of the Court appointed valuer, is as under:

- (i) As per circle rates - Rs.3,91,38,104/-.
- (ii) As per fair market rate - Rs.13,87,96,808/-.

6. The Defendant has filed its valuation report which he has got conducted through another government approved valuer. The values as per the said report are as under:

- (i) As per circle rate method - Rs.3,91,37,748.80/-
- (ii) As per comparative sale method - Rs.4,22,68,800/-.

7. The Defendant's valuer gives the market value on the basis of comparative sale method by relying upon other registered sale deeds executed in the area of similar properties.

8. There is enormous difference between the market values of the property as valued by the two valuers. Accordingly, the court appointed valuer, Mr. Kameshwar Prasad Singh, is directed to place on record a justification for the fair market value arrived at by him, as no documents have been annexed to the report as to how the said fair market value was arrived at. Let the court appointed valuer file an additional report in this regard within two weeks.

9. Ld. Counsels submit that the appeal challenging the preliminary decree is pending and is listed next month.

10. Both the parties are permitted to file any comparative sale deeds or other documents of the area in order to justify the valuation which they rely upon.

11. List on 28th May, 2019.
12. All the IAs are disposed of.
13. The Registry is directed to serve a copy of this order to the valuer, Mr. Kameshwar Prasad Singh.

PRATHIBA M. SINGH, J.

MARCH 26, 2019/ms