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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EX.P. 424/2014

ASHA CHAUDHARY

..... Decree Holder

Through: None.

versus

SUNITA PURI & ORS

..... Judgement Debtors

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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18.02.2019

1. The present execution petition seeks execution of judgment/decreed dated 7th May, 2014. As per the said judgment, the shares of the parties were determined as 1/7th each. The operative portion of the judgment/decreed is set out herein under:

“Plaintiff has filed the present suit for partition and permanent injunction with respect to the properties situated at (i) A-113, Dayanand, Lajpat Nagar IV, New Delhi; (ii) A-114, Dayanand, Lajpat Nagar IV, New Delhi; and (iii) 2073-2074-2075, Ghhaparwala Kuan, 38, Naiwala Gali, Karol Bagh, New Delhi.

It is submitted by learned counsel for the plaintiff and defendants no.1 to 4 that all the parties have 1/7th share, each, in the abovestated suit properties. It is further submitted that defendants no.5 and 6, who are the residents of United States of America and Sweden, respectively, have had no interaction with either of the parties, for the past many years and repeated steps have been taken to serve them but their service report is awaited. Thus, they are deemed to be served. Counsel for the parties next submit that it is not

possible to divide the aforestated suit properties by metes and bounds and pray that the present suit may be decreed defining the shares of the parties as 1/7th each.

Accordingly, as prayed, suit stands decreed defining the shares of the parties as 1/7th each.

I.A. 7159/2012 (STAY)

Application stands disposed of in view of the order passed in the suit.”

2. On 15th May, 2017, Ld. counsel for the Decree Holder claimed that an application had been moved under Section 152 CPC. However, no such application was on record. The Decree Holder was directed to get the same listed. The matter was then adjourned *sine die*. The said order dated 15th May 2017, is set out hereinbelow:

“It is submitted by learned counsel for the decree holder that he has moved an application under Section 152 of the CPC (diary No.247770 dated 12.05.2017). No such application is on record. Learned counsel for decree holder to check it up with the Registry.

Matter be listed as and when the said application is cleared for hearing by Registry.”

3. Subsequent to the said order being passed, the matter has remained adjourned *sine die* but the application does not appear to have been listed before this Court.

4. On 9th October, 2018, court notice was issued to Ld. Counsels, whose *vakalatnamas* were on record. Thereafter, since none appeared on 19th December, 2018, it was directed that SMS intimation would be given on the mobile numbers of the counsel whose *vakalatnamas* were filed. Registry has today reported that SMS intimation has been duly given. Notice issued to Ld. counsel for Decree Holder has already been served. Despite the

same, no one has appeared in the matter.

5. Under these circumstances, the petition is dismissed for non-prosecution.

PRATHIBA M. SINGH, J.

FEBRUARY 18, 2019/dk