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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 2667/2015 & CRL.M.A. 9696/2018, I.A. 18398/2015, I.A. 11465-11466/2017, I.A. 14465-14466/2017, I.A. 7038/2018, I.A. 2542/2019

PRADEEP KUMAR SENIARAY Plaintiff

Through Ms. Amita Gupta with Ms. Kinjal
Shrivastava, Advocates with
Plaintiff in person.

versus

PUSHPA RANI & OTHERS Defendants

Through Mr. Jagat Siingh with Ms. E.J.D.
Ahuja, Advocates for D-4. D-4 in
person.
Defendant nos.1 to 3 and 5 in person.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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19.02.2019

Present suit has been filed for partition by the plaintiff/brother.

It is pertinent to mention that on 4th September, 2017 a preliminary decree was passed by this Court declaring that the plaintiff and defendant nos. 1 to 5 are entitled to one-sixth share each in the properties bearing no. 5/189, Sunder Vihar, New Delhi and Shop No. A-5/5, Paschim Vihar, New Delhi.

Thereafter, applications were filed by defendant no.4 to seek recall of the preliminary decree.

On the last date of hearing, the Court had passed the following order:-

“Today, learned counsel for defendant No.4, on instructions of defendant No.4, who is personally present in Court, states that if the defendant No.4 is allowed to retain the shop No.5, A-5, Paschim Vihar, DDA Market, New Delhi, the said defendant would have no objection to the Sunder Vihar House No.5/189, Sunder Vihar, New Delhi-110087 being sold and the sale proceeds being equally divided between the plaintiff and defendants No.1 to 5. He also states that the value of the shop at the circle rate prevalent today be adjusted against his share in the Sunder Vihar House property. He further undertakes to this Court that as and when a suitable purchaser is located for the aforesaid house, he shall vacate the said premises without any demur.

The statements/undertakings given by the defendant No.4 are accepted by this Court and the defendant No.4 is held bound by the same.

In view of the aforesaid undertakings, the plaintiff as well as defendants No.1, 2, 3 and 5 state that they have no objection if an inter se bidding is held of the aforesaid Sunder Vihar house property.

It is made clear that the parties shall be entitled to bid either for themselves or for third parties.

List the matter for inter se bidding between the parties on 19th February, 2019.”

Today, learned counsel for plaintiff and defendant nos.1 to 3 & 5, who are personally present, state that while the circle rate of Shop No. A-5/5, Paschim Vihar, New Delhi is Rs. 37,26,979/-, the market value of the House No. 5/189, Sunder Vihar, New Delhi is Rs. 9,00,00,000/- (Rupees Nine Crore).

Learned counsel for defendant no. 4, on instruction of defendant no. 4, who is personally present in Court, states that defendant no. 4 is ready to accept the aforesaid valuation. He also states that the value of the Shop at

the circle rate be adjusted against his share in Sunder Vihar house and the balance amount of Rs. 1,12,73,021/- be paid to defendant no. 4. He further prays that the defendant no. 4 be granted eight weeks to hand over vacant physical possession of the suit property to the plaintiff and defendant nos.1 to 3 and 5.

The aforesaid statements and undertakings are accepted by this Court and parties are held bound by the same.

It is directed that the plaintiff and defendant nos.1 to 3 and 5 shall simultaneously execute the relinquishment deed with regard to the Shop No. A-5/5, Paschim Vihar, New Delhi in favour of defendant no. 4 and defendant no. 4 shall execute the relinquishment deed with regard to the House No. 5/189, Sunder Vihar, New Delhi in favour of the plaintiff and defendant nos.1 to 3 and 5.

Parties state that they would amicably partition the movable properties amongst themselves within eight weeks.

Since the relationship between the parties is a bit strained, the plaintiff and the defendant nos.1 to 3 and 5 shall deposit the amount of Rs. 1,12,73,021/- with the Registry of this Court and the keys of the suit premises shall also be deposited with the Registry of this Court within the aforesaid stipulated period. It is made clear that upon receipt of Rs. 1,12,73,021/-, the defendant no. 4 shall have no right, title or interest in the suit property and in the event he asserts any right in the suit property in future, he shall be liable for contempt proceedings, besides other remedies that may be available in law to the plaintiff.

Consequently, present suit for partition is decreed in the aforesaid terms. Registry is directed to prepare a decree sheet. Accordingly, present

suit and pending applications stand disposed of. However, list the matter for compliance on 8th May, 2019.

As a token of acceptance of today's order, all the parties are directed to sign the present order sheet.

MANMOHAN, J

FEBRUARY 19, 2019

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