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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 307/2019, IA No.8300/2019(u/O.XXXIX R.1&2 CPC)
SARABJIT SINGH BEDI Plaintiff
Through: Mr. Praveen Kumar, Adv.

Versus

JASBIR KAUR BEDI & ORS. Defendants
Through: Mr. Rajat Aneja & Ms. Rajula Gaur,
Adv. for D-1 to 4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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26.02.2020

1. The suit is listed today pursuant to the preliminary decree for partition passed on 31st January, 2020.
 2. The counsel for the plaintiff Mr. Pravin Kumar, Advocate today appearing for the plaintiff states that he has been engaged now in place of the counsel earlier appearing for the plaintiff and a Will of the predecessor of the parties has surfaced and he has moved an application yesterday in this regard.
 3. Needless to state, there is no application on record.
 4. Mr. Pravin Kumar, Advocate seeks adjournment for the application to come on record.
 5. The plaintiff had instituted this suit pleading the common predecessor to have died intestate. The Advocate who had drafted the suit for the plaintiff was appearing till 31st January, 2020. Surfacing of a Will, after the
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preliminary decree for partition was passed, at this stage, specially on engagement of a new counsel, is highly suspicious. Adjournment cannot be granted on this ground.

6. I have enquired from the counsel for the plaintiff, whether he has any proposal for partition by metes and bounds.

7. The counsel has none.

8. The counsel for the defendants also has not proposed any partition by metes and bounds and has stated that the defendant no.1 having four-fifth undivided share is willing to buy the one-fifth share of the plaintiff.

9. A final decree for partition of ground, second and third floors of property no. J-13/55, Rajouri Garden, New Delhi together with open terrace above the third floor is passed, of sale thereof and of distribution of sale proceeds between the parties in accordance with the shares declared in the preliminary decree for partition dated 31st January, 2020. However, before the property is sold to an outsider, it shall be open to the parties to have *inter se* bids, with the party/ies making the highest bid acquiring the share/s of other/s against payment of consideration, delivery of vacant peaceful physical possession and execution of requisite documents.

10. Whichsoever party i.e. the plaintiff or the defendant no.1 is in possession of whichsoever portion of the property, if fails to vacate the said portion pursuant to sale/*inter se* bid, shall be liable to be dispossessed therefrom as if in pursuance to a decree for recovery of possession of immovable property.

11. The parties are left to bear their own costs.

12. Decree sheet be prepared.
13. The Court fees/Stamp Duty on the final decree to be borne by the plaintiff and the defendant no.1 in proportion to their respective shares under the preliminary decree for partition.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 26, 2020

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