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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(OS) 13/2023 & CM APPLs.28566/2023 and 52843-52845/2023**

DR. ANIL GOMBER Appellant

Through: Mr.Ashutosh Lohia, Advocate with
Appellant in person.

versus

GEETA TANDON & ANR. Respondents

Through: Mr.N.K.Kantawala, Advocate for R-
1.
Mr.Shiv Charan Garg, Advocate with
Mr.R.K.Kashyap and Mr.Imran Khan,
Advocates with Respondent No.2 in
person.

% Date of Decision: 13th October, 2023

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MANMOHAN, J: (ORAL)

1. RFA(OS) 13/2023 has been filed challenging the impugned order dated 10th April, 2023 passed by the learned Single Judge in CS(OS) 2036/2012, whereby the suit for partition filed by Respondent No.1-Sister was dismissed and the suit property was directed to be divided equally between the two brothers (i.e. Appellant and Respondent No.2) on the basis



of a Will dated 27th December, 2010 drawn by the mother/owner of the suit property.

2. It is the case of the Appellant in the present appeal that the subsequent Will dated 29th February, 2012 was duly registered and was the last Will of his mother. Learned counsel for the Appellant states that the impugned judgment is contrary to facts and untenable in law.

3. CM Appl. 52843/2023, being cross objection, has been filed by Respondent No.2 for consideration of testimony of PW-6 (Dr.Vishal Girotra) dated 9th January, 2018.

4. In pursuance to the directions issued by this Court, Appellant and Respondent No.2 have personally appeared before this Court on 11th and 12th October, 2023.

5. Today, the Appellant and Respondent No.2, who are personally present, state that they have amicably resolved their disputes as under:-

A. The Appellant and Respondent No.2 have agreed to sell the suit property being F-3, Vijay Nagar, Near Delhi University, Delhi-110009, comprising two and half floor on a plot of land measuring 200 Sq. Yards on as-is-where-is basis within six months. The Appellant and Respondent No.2 shall be entitled to find a suitable buyer during this period. However, it is agreed that the aforesaid property shall not be sold at a price less than Rs.7.5 crores.

B. The proceeds of sales shall be divided in ratio of 55:45 per cent i.e. Appellant shall receive 55% of the sale proceeds and the Respondent No.2 shall be entitled to receive 45% of the sale proceeds.



C. Out of the sale proceeds received by Appellant and Respondent No.2, Rs.30 lakhs shall be paid to the Respondent No.1- Sister, to be paid in equal proportion of Rs.15 lakhs each by the Appellant and Respondent No.2.

D. Additionally, the Appellant shall pay a further sum of Rs.15 lakhs to the Respondent No.1-Sister out of the sale proceeds received by him.

E. In the event of non-compliance of the aforesaid settlement agreement by either of the parties, the aggrieved party shall be at liberty to file appropriate proceedings in accordance with law, including initiation of Contempt of Court proceedings.

6. At this stage, learned counsel for the Respondent No.1-Sister states that in the event the aforesaid payment is made by Appellant and Respondent No.2, Respondent No.1-Sister would be satisfied and would execute any document required to effectuate the sale of the property in question.

7. It is agreed that the aforesaid settlement agreement resolves all disputes between the parties and the parties have no surviving dispute against each other.

8. The statements/undertakings given by the parties as well as by their counsel are accepted by this Court and the parties are held bound by the same. The present appeal and pending applications are disposed of in accordance with the aforesaid terms and conditions.



9. As a token of acceptance of the order passed today, Appellant and Respondent No.2 as well as learned counsel for Respondent No.1 shall sign the Order Sheet.

10. Registry is directed to prepare the Decree Sheet in accordance with the aforesaid terms. It is clarified that the issues of fact and law raised in the present appeal are left open.

MANMOHAN, J

MINI PUSHKARNA, J

OCTOBER 13, 2023
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