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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 311/2023 & I.A. 20526/2023**

SARBJOT KAUR ROSHA

.....Plaintiff

Through: Mr. Akshat Bharadwaj, Advocate
with Sh. Paramjit Singh Rosha,
spouse of the Plaintiff in person.

Versus

LT. COL. M.P.S. WALIA

.....Defendant

Through: Mr. Shivek Trehan, Mr. Ishaan
Kumar, Advocates, alongwith
defendant in Person.

CORAM:

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH
ARORA**

ORDER
30.08.2024

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CS(OS) 311/2023

1. The present suit has been filed seeking relief of declaration, partition and injunction with respect to property bearing no. B-3, Ground and Basement Floor, Kailash Colony, New Delhi ('suit property'). The plaintiff seeks a declaration that she is ½ owner of the suit property and claims her right of inheritance through her mother late Smt. Kuljinder Kaur in the estate of her maternal grand-father, late Sh. Darshan Singh.
2. After some arguments, learned counsel for the plaintiff states on instruction from the plaintiff as well as her husband Sh. Paramjit Singh Rosha, who is present in Court that the plaintiff seeks to unconditionally



withdraw this suit.

3. However, before acceding to the said prayer of the plaintiff, this Court would like to record that the defendant has placed on record the proceedings in Suit No. 749/1989 which were filed by the mother of the plaintiff i.e. Smt. Kuljinder Kaur as plaintiff no. 2 with respect to the same suit property before the High Court of Delhi. In the said suit late Smt. Surjit Kaur, widow of late Sh. Darshan Singh was plaintiff no. 1 and the defendant herein was also impleaded as a defendant to the said suit.

4. As per the record of the said suit, the parties therein had entered into an Oral Family Settlement dated 06th June, 1998, which was thereafter reduced into a written memorandum of family settlement ('MOFS') dated 29th July, 1988 followed by an application filed by the parties under Order XXIII Rule 3 of CPC in Suit No. 749/1989. The statement of the parties to the said suit was recorded before the High Court and by an order of the High Court dated 21st April, 1989, the suit was decreed. The said decree was with respect to partition of the entire estate of late Sh. Darshan Singh.

5. As per the MOFS executed between the parties the entire property i.e. property bearing No. B-3, Kailash Colony, New Delhi-110048 ('immovable property') devolved upon Sh. M.P.S. Walia exclusively.

6. Thereafter, in fact, acting upon the said MOFS, Sh. M.P.S. Walia, i.e., the defendant herein entered into a development agreement, undertook reconstruction of the immovable property and has since transferred the 1st Floor and the 2nd Floor to third parties in the year 1990 and 1991. The attention of this Court has also been drawn to the Mutation Certificate dated 11th February, 1990 passed by Municipal Corporation of Delhi recording the defendant herein as the owner of the immovable property.



7. The plaintiff admits the proceedings of Suit no. 749/1989 and the subsequent events brought on record by the defendant showing that the decree dated 21st April, 1989 has been acted by legal heirs of late Sh. Darshan Singh.

8. In these facts, this Court is even otherwise satisfied that the plaintiff herein had no cause of action for maintaining the present suit as the estate of late Sh. Darshan Singh stood partitioned during the life time of late Smt. Kuljinder Kaur by virtue of the MOFS dated 29th July, 1988 and the order dated 21st April, 1989 and the present suit is infact barred by principles of res-judicata.

9. In view of the request of the plaintiff seeking to unconditionally withdraw the suit as well as the admitted facts brought on record by defendant, the suit is hereby dismissed.

10. Pending applications are also disposed of.

11. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

AUGUST 30, 2024/MR/ms

[Click here to check corrigendum, if any](#)