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

+ CS(OS) 286/2019 & I.A. 156/2020, I.A. 638/2020, I.A. 155/2024,
I.A. 14257/2022, I.A. 1500/2024
SUBHASH DAWARPlaintiff

Through: Mr. Rakesh Mittal, Mrs. Yamini
Mittal, Mr. Ajay Harshana and Ms.
Gauri Kanodia, Advocates with
Plaintiff in-person

versus

KAILASH DAWARDefendant
Through: Mr. Anuj Rajput, Advocate with
Defendant in-person.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

20.11.2024

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1. The instant suit is one for partition of property bearing No. 147, Sunder Nagar, New Delhi-110003 by metes and bounds demarcating Plaintiff's 50% share in the suit property.
2. The matter was sent to mediation and after a lot of efforts, finally a settlement agreement dated 07.11.2024 has been entered into between the parties.
3. Under the settlement agreement, the parties have decided to apportion the property in terms of the settlement agreement. The settlement agreement dated 07.11.2024 reads as under:-

"SETTLEMENT AGREEMENT

*This Settlement Agreement is entered into on
07.11.2024*



BETWEEN

Dr. Subhash Dawar S/o Late Dr. H. R. Dawar R/o 147, Ground Floor, Sunder Nagar, New Delhi-110003 (Email: sdawar5@gmail.com) hereinafter referred to as FIRST PARTY/PLAINTIFF; Mr. Kailash Dawar S/o Late Dr. H. R. Dawar R/o 147, First Floor, Sunder Nagar, New Delhi-110003 (Email: gitanjalikamra@hotmail.com) hereinafter referred to as SECOND PARTY/DEFENDANT.

AND

WHEREAS, the expressions "First Party" and "Second Party" shall construe to mean and include, unless repugnant to the context, their legal heirs, legal representatives, assigns, attorneys, successors, nominees, authorized representatives etc.

AND WHEREAS, the parties are real brothers, both above 80 years in age and residing in Suit-Property bearing No. 147, Sunder Nagar, New Delhi-110003.

AND WHEREAS certain disputes and differences had arisen between the parties and a suit for partition being CS (OS) No. 286/2019 came to be filed.

AND WHEREAS, before the inter-se differences arose between the parties, they were jointly owning the abovementioned immovable-property i.e. suit-property AND certain moveable assets, i.e. one Joint-Bank-Account, one FDR in joint- names and one Joint-Demat-Account having 6400-Shares, all held jointly in the names of both the brothers i.e. Mr. Kailash Dawar & Dr. Subhash Dawar.

AND WHEREAS, the Hon'ble High Court of Delhi passed a preliminary decree of partition vide order



dated 29-04-2020 thereby declaring both the parties as equal (50%) joint owners of one-half undivided share each in the suit-property, i.e., 147, Sunder Nagar, New Delhi-110003.

AND WHEREAS the above-mentioned suit CS (OS) 286/2019 was referred to Samadhan (Delhi High Court Mediation and Conciliation Centre) vide order dated 16.07.2020. The parties agreed that to resolve their disputes & differences, Mr. Dalip Mehra and Mr. Abhilash Mathur, Advocates acted as their Mediators.

AND WHEREAS from 21.07.2020 to 18.02.2021 during pandemic times, several mediation sessions were held through video conferencing with the parties and their respective counsels. First Party was sometimes accompanied/represented by his son Mr. Naman Dawar, his wife Dr. Ramesh Dawar, alongwith counsel Mr. Rakesh Mittal, Advocate; and Second Party was sometimes accompanied/represented by his wife Mrs. Rita Dawar and daughters Mrs. Gitanjali Kamra and Mrs. Nandini Dawar alongwith counsel Mr. Anuj Rajput, Advocate

AND WHEREAS, with the assistance of the said Mediators, the parties voluntarily arrived at an amicable settlement dated 24.2.2021 regarding division of their Jointly owned Movable-Assets, thus partially resolving their disputes. The agreed terms of the moveable assets were duly implemented. Regarding the joint immovable property, i.e. Suit-Property, the parties agreed to approach the Hon'ble Court for partition thereof in accordance with law.

AND WHEREAS upon request of both parties, they were once again referred to Mediation under the aegis of Delhi High Court Mediation and Conciliation Centre, vide order dated 11.05.2023; and both parties-



hereto agreed that Mr. Dalip Mehra, Advocate-Mediator, would act as the Mediator.

AND WHEREAS several mediation sessions were held between the parties through their respective counsels, some of which were attended by both the senior-citizen-brothers/parties also; unfortunately failing to reach a settlement the matter once again came back to court, but due to the efforts of the counsels shortly thereafter both the parties were ultimately able to finalise amicable-terms for a mutually-acceptable partition of suit property between the two-brothers/parties- hereto; and for recording thereof the matter was again referred to Mediation- Centre upon request of the counsels on 08-02-2024 for placing before Mr. Dalip Mehra, Advocate-Mediator. The First Party was represented through counsel, Mr. Rakesh Mittal, Advocate (Enrol. No. D/1532/2000, Email: advrakeshmittal@gmail.com), and the Second Party was represented through counsel Mr. Anuj Rajput, Advocate (Enrol. No. D/540/1993, Email: anujrajput.advocate@gmail.com).

AND WHEREAS with the assistance of the Mediator Mr. Dalip Mehra, both the brothers/parties-here to have now finally resolved all their differences and have voluntarily agreed upon an unequivocal "Partition of suit-property by Metes and Bounds"which is hereby being recorded as "Full & Final Partition of the Suit-Property (147, Sunder Nagar, New Delhi-110003)", in the following terms:

The terms of the Full & Final Partition Settlement are as follows:

A. The entire Suit-Property has been mutually divided into Three- Parts/Portions (accordingly shown on coloured-maps attached herewith):



Part-A: Blue colour portion shall exclusively belong to Plaintiff

Part-B: Green colour portion shall exclusively belong to Defendant;

Part-C: Yellow colour portion shall be common area belonging to both the parties-hereto.

Terms, right(s) & manner of use of said so-segregated areas (by the parties- hereto) shall be as expressly mentioned in the instant settlement-agreement.

Nine Maps showing the said portions ie. Part-A, Part-B & Part-C, have been attached herewith as:

Annexure-I (Map-1): Existing layout of Ground-Floor

Annexure-II (Map-1A): Final Map of Ground-Floor

Annexure-III (Map-2): Lower-mezzanine

Annexure-IV (Map-3): Existing layout of First Floor

Annexure-V (Map-3A) Final Map of First Floor

Annexure-VI (Map-4): Upper-mezzanine

Annexure-VII (Map-5): Existing layout of Terrace

Annexure-VIII (Map-5A): Final Map of Terrace

Annexure-IX (Map-6): Main-Staircase

Annexure-X (Map-7): Spiral-Staircase & House-Help Area



Annexure-XI: List of Works agreed to be carried-out by Plaintiff/Defendant with Timeline & Estimated-Expenses.

Part-A/Plaintiff's Share (shown in Blue-colour in the annexed Maps):

a. Entire Ground floor except the "Expressly Defined Common-Areas" AND except the "Lift, Porch-Entrance-Door & Car Garrage-2 belonging to Defendant";

b. Lower-Mezzanine;

c. Car Garage-11

d. Two rooms of Servants-Quarters with attached balcony(immediately on top of two car-garages), at the rear south-east corner portion of suit-property;

e. Extended spiral-staircase (agreed to be built over the existing spiral stair case) upwards from defendant's-servant-rooms-level to Terrace- level of the suit property (as shown in Map-7);

f. Overhead water-tank(s) and the surrounding cordoned off area (as shown in Map-5A)

Part-B/Defendant's Share(shown in Green-color in the annexed Maps):

a. Entire First-Floor;

b. Upper-Mezzanine;

c. Entire Terrace [except Overhead water-tank(s) and the surrounding cordoned off area (as shown in Map-5A)and except two common- chimney-heads at points



C-1 and C-2 in Map 5A"];

d. Lift and Car-Garage-2 on the Ground-Floor,

e. Main-Staircase (upwards) beyond the door (shown as D-2 in Map- 6) leading to Sun-shade-area on top of Porch of suit-property, where the defendant shall be entitled to put a lockable gate (shown as D-3 in Map-6) at his expense as mentioned in para 13 below;

f. Two rooms of the Servants-Quarters with attached balcony (immediately on top of plaintiff's-servant-rooms) at the rear south- east corner portion of suit-property;

g. The porch entrance-door (shown as D-1 in Map-1A and in Map 6), opening into the main-staircase from driveway, shall exclusively belong to defendant, and shall always remain under exclusive lock-&-key/control of defendant only.

Part-C/Common-Share (shown in Yellow-color in the annexed Maps):

a. Main/Front Entrance gate and the Driveway,

b. Access Ramp at the end of existing-driveway, leading to area in front of the Lift as shown in Map-1A;

c. Concrete Area adjacent-to the three sides of the elevator (as shown in yellow color in Map-1A): Entire concrete area present in front of front entrance of lift; concrete area upto 36-inches from elevator-wall on the side of the lift as well as in front of back-entrance of Lift;



d. The common house-help area at ground floor at rear south east corner consisting of one Toilet, one Bathroom and attached open space, existing spiral-staircase and a gate opening into back-lane (as shown in Map-1A). A water-tank shall be placed on roof of house-help's bathroom & toilet situated at rear south east corner of ground-floor (expenses to be shared by both parties).

e. Main-staircase "from ground-floor upto the door (D-2 shown in Map- 6) to access Sun-shade area on top of the Porch" [ie. door opening into sun-shade-area on top of porch). To go to the lower mezzanine storage, the plaintiff shall access the main-staircase from door (shown as D-4 in Map 1-A and Map 6) which opens from inside his ground-floor house,

f. Sun-shade-area on top of Porch; Both parties shall have a key of the door (shown as D-2 in Map-6) in main-staircase which opens onto Sun-shade-area on top of Porch;

g. Spiral Staircase upto Ist-floor-level (specifically defendant's-servant- rooms-level), situated at rear south-east corner portion of the suit- property in House Help area (as shown in Map-7);

h. Shaft; Top opening thereof is covered with an old canopy (to shield from rain) which is in dilapidated condition; Parties have agreed to replace the same with a new Canopy (expenses to be shared by both parties).

i. Two Chimney-heads (Shown as C-1 and C-2 in Map-5A) on the terrace.

None of the parties-herein shall alter any of the common areas in any manner, without the prior written



consent of the other party hereto.

2. It is agreed that, under any circumstances if the suit-property is rebuilt, then both parties shall have an equal and indivisible ownership interest/right (in equal proportion of 50% each) in the entire plot / property/land upon which the suit-property is situated. In case of redevelopment/reconstruction of the suit-property, both the parties shall be entitled to have equal constructed area as well as equal open area.

3. Regarding the Driveway of the suit-property: The driveway shall have a longitudinal white painted line/Central Strip (in the middle of the width of driveway), the said midline (extending from main-gate upto Small- wall-partition marked as "X" in Map-1 & Map-1A) shall always be maintained and repainted as and when required. It has been mutually agreed between the parties, that the half portion of longitudinal-driveway which is next to the ground-floor house shall continue to be used exclusively by Plaintiff to park his two-cars only; similarly, the other-half portion of driveway which is next to the boundary-wall (of the plot) shall continue to be used exclusively by Defendant to park his two-cars only. Both Plaintiff & Defendant shall park only two cars each in the driveway in zig-zag manner as shown in Map-1A; The parties agree that their respective cars shall be parked in such a manner so as to ensure that there is enough space/gap at each of the points "A", "B" & "C" (in Map- 1A) between the parked-cars to enable easy movement of persons walking through the driveway. The Plaintiff shall park his two cars as close to his-house-wall as possible and similarly the Defendant shall park his two cars as close to the boundary wall as possible, upto a gap of 12" (+/-1") on the best effort basis, to leave a gap of about 1.5 ft. to 2.5 ft. at the points "A", "B" & "C". The small partition-wall



(measuring 15" Width x 10' Length x 15" Height marked as "X" in Map-1A) between the existing-driveway and the existing-rear-lawn shall not be removed by the plaintiff.

4. Currently the corner-pillar of main-gate is not aligned with the boundary-wall of the plot and is causing inconvenience while parking of cars (in driveway) next to the boundary-wall, therefore, the defendant shall be free to modify the said pillar, so that the main-gate is as close to the boundary-wall as possible without disturbing the white-marble façade on corner-pillar and the wall of the neighbour, and if required then the main-gate (of suit-property) also may be modified (good/same quality), at the sole responsibility and cost of the defendant. Before starting the said work, defendant shall inform plaintiff at least 3 days in advance. Defendant may carry out this work within 90 days from signing of this agreement. Also the work if started, has to be completed in 7 days. If the said work is started and not completed in 7 days, plaintiff shall get it completed at the expenses of the defendant. The defendant shall install a door-bell-switch (of his residence) outside the main/front-entrance-gate.

5. Both parties-hereto presently have the keys of the lock(s) of front- entrance-gate (of drive-way of suit-property), as well as of existing rear- entrance-gate (overlooking the Lift-area) in rear-boundary-wall.

In future, if plaintiff decides to use the rear portion of the property i.e. rear-lawn and adjacent area as Car Parking area or otherwise and accordingly carries out modifications, Plaintiff shall be fully authorised to shift or remove the existing rear-entrance-gate (shown in Map-1 & Map-1A) and/or to install new-gate/gates in the rear boundary-wall for entry/exit of his cars or



otherwise from the backside of the property i.e. from rear-lane.

If plaintiff modifies the rear area as above and replaces existing rear entrance gate with new gate(s), the Defendant shall continue to access his car-garage from rear gate which shall be of minimum size (measuring 2'11" x 6'11") as the existing rear-entrance-gate either separately (as shown in Map-1 & Map-1A) or within a new large-gate; plaintiff shall provide to defendant a key of said small gate; and for said purpose defendant shall use only the path specified by the plaintiff (not smaller than the present pathway 3'2" width as shown in Map 1A) in the newly modified area.

Both parties shall keep their respective help-staff duly instructed to ensure that the front-entrance-main-gate as well as rear lane access gate is not left open in order to avoid unauthorised persons coming inside the suit-property.

6. Present spiral-staircase is from ground-floor-level to 1st-Floor-level (specifically up-till defendant's-servant-rooms-level), and now it has been mutually decided to extend the said spiral-staircase upwards from defendant's-servant-rooms-level to Terrace-level. The said new portion of Spiral-Staircase so-extended upwards from defendant's-servant-rooms-level to Terrace-level shall be exclusively owned by plaintiff, the plaintiff shall get the said work done, expenses whereof shall be borne equally by both parties. A scaffolding, If required shall be erected in south east corner of property for extending the spiral stair case. During construction/installation of extended staircase, the labor and material shall use the rear-staircase/scaffolding as far as possible. Movement of the labor and material can be done through the main



staircase only if necessary with prior intimation to the defendant. After installation of the spiral staircase, the movement of all labor and construction material shall be through the said spiral staircase only.

7. Two overhead water-tanks of 1000 ltr. each (as shown by Point-B in Map-5, presently one each belongs to plaintiff & defendant) shall henceforth exclusively belong to plaintiff only, Plaintiff shall access his said water-tanks area from aforementioned proposed upward-extended spiral-staircase (joining the terrace level) by way of a ramp as shown in Map-5A; It is agreed that waterproofing of floor-area "beneath & around" plaintiff's water-tanks shall be carried out by plaintiff by using good quality material/chemical, for which the two existing water-tanks (in the area marked as Point-B in Map-5A) shall be temporarily shifted (with 3 days prior intimation to the defendant) for carrying out said waterproofing & drainage work; And after shifting back the said two water-tanks into Point-B in Map-5A, thereafter the said water-tanks and surrounding-area shown in blue-color shown in Map-5A(exclusively belonging to plaintiff) shall be cordoned-off (completely-closed as shown in Map-5A) from rest of open-terrace by way of MS Partition(7- feet high). The said partition shall have a suitable base also to prevent flow of water from cordoned off area to the main terrace and an independent water drain outlet/pipe leading from the cordoned off area to the ground floor shall be installed (if it is not already there); The plaintiff shall have exclusive ownership and rights to use the said water-tanks area in any manner whatsoever including to put a lockable gate at Terrace level (at his own expense) in spiral-staircase or on the connecting-ramp (spiral stair-case elevation is shown in Map-5A).

The Plaintiff shall complete the works specified in Para



nos. 6 & 7 hereinabove, within the time-frame of 90-days as mentioned in Annexure-XI. For any reason if the said work is not completed by plaintiff within the said time-frame without reasonable cause, then the defendant shall be entitled to complete the said work within the next 90- days. In this eventuality, the defendant shall be entitled to shift plaintiff's water-connection-pipe (by disconnecting from plaintiff's previously owned one-water-tank) from Point-A in Map-5A, and connecting it to plaintiff's now-second water-tank (which was previously owned by defendant) at Point B in Map-5A, at plaintiff's expense. Similarly, the defendant shall also shift/remove his own water-connection-pipes from Point-B in Map-5A to his area at his own expense. Both parties shall fully co-operate with each-other for the completion of all the aforesaid works.

8. It has been agreed between the parties, that, except-for parking their respective cars at the designated parking-spots in the common driveway, none of the parties shall keep/store any item in the common-areas of the suit-property. The plaintiff shall be free to continue to keep his Inverter, Inverter-Batteries etc, in the space below the main-staircase at ground- floor level; said area underneath the main-staircase shall be maintained by plaintiff only.

9. The aforesaid work of making the upward stretch of spiral-staircase, waterproofing of floor-area "beneath & around plaintiff's water-tanks", and installation of aforementioned MS partition (for cordoning-off of plaintiff's water-tanks area on terrace), shall be carried out by plaintiff. The expenses of all the abovementioned works shall be shared equally by both the parties. All the mutually agreed works as mentioned in this settlement, including the upward extension of spiral-staircase, waterproofing of



plaintiff's water-tanks area, cordoning-off of the plaintiff's water-tanks area with MS Partition (as shown in Map-5A) and replacing of the canopy on top of Shaft, Repair and painting of the exterior walls of the house, etc., shall be carried-out as per Timeline mentioned in Annexure-XI.

10. It has been agreed, that, water & electricity connections to Plaintiff's and Defendant's respective servants-rooms (with balcony)-areas shall be connected from plaintiff's and defendant's respective connections/meters, if at-all the same is not-so at present. Henceforth, both parties shall have segregated electricity-wiring/water-pipes etc., to be rectified/carried-out whenever discovered/required, for which both sides shall always cooperate with each other. For separate water-supply to servants common-toilet/bathroom, a water-tank shall be kept on the roof of servants toilet/bathroom situated at the ground-floor (at rear south-east corner of property); Both parties have decided to install new Meters (obtain new connections from respective authorities or if not-possible then sub-meters) for Electricity and Water connections for the servant's area at rear south-east corner of ground-floor including servants toilet & bathroom". The expenses of said water-tank installation for servants toilet/bathroom AND for getting new meters or sub-meters (for electricity and water connections for the servants area at rear south-east corner of ground-floor) shall be shared equally by both the parties. The electricity-bill thereof for the full year shall be paid alternately by the parties: The first-year electricity-bill e.g. starting from October2024to September2025shall be borne by plaintiff, thereafterfor the next year October2025 to September2026by defendant, and so on by-rotation i.e. tum-by-turnevery alternate year. Similarly, the water-bill thereof for the first year e.g. starting from October 2024 to September



2025 shall be borne by defendant, thereafter for the next year October 2025 to September 2026 by plaintiff, and so on by-rotation i.e. turn-by-turn every alternate year. As the raw-water supply available at the ground-floor of suit-property will be used by plaintiff only, therefore, the bill thereof shall be borne by plaintiff only.

11. Both parties shall ensure that their respective cables/wires/water-pipes or any utility of any sort on Terrace shall be completely shifted to their respective areas within the same time-frame as prescribed for the work described in paras 6 & 7 hereinabove. There are three-chimneys in the building, one for the servant-block and one each in the kitchen and the drawing room. The chimney for the servants-block shall be permanently closed and there shall be one-time deep cleaning of the other two Chimneys to be done within the same time-frame as prescribed for the work described in paras 6 & 7 hereinabove. In future if any cleaning of these two chimneys is required, the parties shall be free to get the same done from their respective floor upwards

After completion of the work described in paras 6 & 7 hereinabove, the defendant shall handover the possession of "entire rear-lawn" on ground-floor to the plaintiff (said Rear-Lawn shown in Map-1 which is presently fenced and under locked possession of defendant) and the plaintiff shall become absolute owner of entire Ground floor except the "Expressly Defined Common-Areas" AND except the "Lift, Porch-Entrance-Door & Car Garage-2" belonging to Defendant. Thereafter the defendant shall be entitled to "install the proposed Gate (at point D-3 in Map-6) in main-staircase", i.e. to cordon-off the area beyond (upwards from) the point of common use of main-staircase.



12. The plaintiff shall be free to deal with the Entire ground floor [except the "Expressly Defined Common-Areas" AND except "the Lift, Porch- Entrance-Door (marked as D-1 in Map-1A) and Car Garrage-2 belonging to Defendant" AND except "the Small-Wall-Partition marked as "X" in Map-1A belonging to plaintiff") in any manner whatsoever including but not limited to using the present rear-lawn-area as car-parking (approachable from back-lane by installing a gate) or otherwise. No permissions shall be required from defendant for digging/removing of soil/concrete-area for levelling the rear-lawn/ adjoining-rear-area for making a driveway (approachable from back-lane by installing a gate) or for converting the entire or any part thereof into car-parking or to use the same for any purpose as may be decided by the plaintiff; Furthermore the plaintiff shall be fully authorised to carry-out any alterations in the said area including removing of existing rear-entrance-gate and/or also to install new-gate/gates in the rear boundary-wall for entry/exit of his cars from the backside of the property ie. from rear-lane. Defendant shall have free access to go out (from the Lift area) into the back-lane through a back-gate as mentioned in para-5 hereinabove. If any digging takes place in the said rear-lawn-area, the plaintiff shall take adequate care that there is no damage to the building/Lift structure, and any cables/wires/sewer/pipes etc. (if found in the existing rear-lawn/rear- area) are kept safe from any damage or to be moved safely (if required to be moved) at plaintiff's own responsibility & expense. No party shall be authorised to carry out any permanent construction in the suit property except in terms of the present agreement.

13. The Defendant shall be free to deal with the entire



Terrace (except the "cordoned-off water-tanks area of plaintiff, shaft and two chimney- heads) in any manner whatsoever. The defendant shall be free to install a gate (at his own expense) beyond the point of common use of main- staircase (shown at point D-3 in Map-6). Defendant shall have right to have CCTV cameras at ground-floor limited to have clear vision of his Lift entrance area, porch entrance-door of staircase and his cars parked in the driveway of suit-property. Plaintiff shall have right to have CCTV cameras at terrace limited to have clear vision of his cordoned off area on the terrace.

14. In case of any required-work, if any party and/or a technician on behalf of one-party-herein has to use an area which is share of other-party- herein, then the said party shall inform the other party well in advance and both parties shall cooperate with each-other so that said-work can be carried-out without inconvenience to each other, as is basic courtesy in any common-building. Both parties shall use and maintain their exclusive assigned (so-partitioned) areas in a manner that does not damage each-other's assigned areas or adversely affect each-other's rights as agreed in the instant partition-settlement, in letter & spirit.

15. Both parties shall maintain the common-areas at their joint expense as per the agreed terms of the instant settlement-agreement; Presently the repair and painting of exterior of entire-building of suit-property (including common areas) shall be carried out from common funds; said work to be carried out by plaintiff, to be completed within 6-months from the date of handing-over of the possession of entire rear-lawn to plaintiff, thenceforth painting of exterior of entire building of suit-property shall be carried-out once every 4-years or as mutually agreed between both sides, and the expenses thereof shall be shared equally



by both parties.

16. The parties have agreed that the plaintiff shall be free to deal with the Mango tree (which is rooted in the rear-lawn area) after taking due- permission, if necessary, from requisite authorities i.e. to prune/remove/cut the Mango Tree. No permission shall be required from the defendant for the same, still, if need be, when presented with papers for NOC or otherwise to be submitted to MCD/forest-deptt/any other department, the defendant shall sign the NOC immediately upon presentation of said documents. All expenses/charges etc, in respect of any such work related to Mango tree, undertaken by the plaintiff shall be borne by plaintiff only. Except signing his No-Objection, the defendant shall not be responsible regarding any steps/actions undertaken by the plaintiff for pruning/cutting/removing of the mango-tree. While dealing with the mango-tree, the plaintiff shall take all due-care that no part of the Building/Lift structure gets damaged in any manner. In case of any damage, the same shall be repaired by the plaintiff at his expense.

17. The parties have agreed that they shall apply for mutation of their separated portions (of suit-property) within 30-days after the defendant has handed-over the possession of rear-lawn on ground-floor to plaintiff; so that after the said mutation both parties are able to pay separate property-tax in their individual names. It has been agreed between the parties that, till the time mutation in respect of partitioned-suit-property takes place in records of concerned authorities, the property-tax in respect thereof shall be continued to be shared equally by First-Party & Second-Party; and after the mutation in the municipal records as per Decree of Partition passed by Hon'ble High Court of Delhi, each party shall pay property-tax in its own/individual name as per rules Regarding property-tax component in



respect of common areas, the same shall be borne by the parties as per law/decision of the municipal authorities. It is agreed that if the Decree of Partition is necessary to be registered for the purpose of mutation of their respective portions in MCD then the same shall be registered jointly by both parties along with payment of requisite charges to the authorities, and all expenses thereof shall be shared equally by both the parties.

18. Both parties have agreed to carry-out/complete all the agreed- works/steps within the stipulated timeline mutually-agreed between the parties, as duly mentioned in Annexure-XI (List of works with Timeline/Estimated-Cost) attached-hereto, which shall be considered as part & parcel of instant agreement. It is agreed that these time-lines will be subject to any restrictions as may be imposed by any government agency regarding pollution or otherwise from time to time in Delhi. In which case, the said timelines will automatically get extended accordingly.

Parties shall close their joint bank-account with HDFC bank, within 15- days from the date of completion of all the works to be carried-out as agreed by way of the instant settlement-agreement.

19. It has been agreed by the parties that after the handing-over of rear-lawn by defendant to plaintiff as per para-11 of the present settlement, both the parties shall have absolute right to use/deal-with their respective shares of suit-property (i.e. Part A, Blue color portion for the plaintiff and Part B, Green color portion for the defendant as per Maps annexed and terms settled in this agreement) in any manner whatsoever including having independent power/right to sell the same to any outsider whosoever and the other party shall have no right to object or create any



hinderance in respect thereof in any manner. Thus, if any party-hereto wants to sell/rent out its exclusive portion/share of suit-property to anyone at any point of time, in that event no-permission shall be required from the other party-hereto, except that the said party shall inform the other party and provide details of the subsequent purchaser/person taking on rent, as also provide a signed copy (by the subsequent purchaser/person taking on rent) of the decree-sheet (passed by Hon'ble High Court of Delhi) and instant settlement-agreement within 7-days, to ensure that the terms of the instant-agreement and decree-sheet are followed in letter & spirit, by the subsequent purchaser/person taking on rent. It has been categorically agreed between both-parties-hereto, that, if any party decides to sell its respective-share of the suit-property (as divided by way of the instant partition-settlement), then there shall be no right of first-purchase/first-refusal (of any kind whatsoever) in favour of the other-party-hereto; thus, the instant settlement-agreement settles the final-partition of suit-property in all respects i.e. there shall be no interdependence/interference on/of the other-party or any kind of direct/indirect control (of other party herein) on each other's exclusive share of suit-property.

20. Both parties-hereto understand that by way of the mutual terms agreed in this settlement, the subsequent partition-decree to be passed by Hon'ble High Court of Delhi, shall affect the title of the suit-property by creating individual ownership rights for each brother (parties-hereto). Both parties have agreed that in view of the common-building standing in the suit-property, therefore, in the event of the aforementioned sale of its respective share-of-property by one of the parties-hereto, then the Sale document shall include a categoric-condition/term to the effect that the



New-Owner/Buyer shall always be bound by all the terms & conditions of the instant Settlement-Agreement and Final-Decree passed in this matter (CS(OS)No. 286/2019] by Hon'ble High Court of Delhi; thus, the new buyer shall become owner of the so-sold share strictly subject-to compliance of all the terms of the instant-settlement also, including the right to use as-well-as responsibility to maintain common-areas of entire suit-property as mentioned in this settlement-agreement.

Notwithstanding the above, in case of reconstruction/redevelopment of suit property, both parties shall have equal ownership right (50% share each) of the newly constructed building, and similarly the parties shall have right to 50% amount (each) of the sale-proceeds (if property is jointly sold) as detailed in para-22hereinbelow.

21. The original-papers of suit-property shall remain with the elder- brother/defendant and a copy thereof (signed by both the parties) with the younger-brother/plaintiff. If the elder brother sells his share of property to anyone, then the said original-papers shall be handed-over to the younger-brother/plaintiff, thus, all original-documents of suit- property shall always be maintained within the Dawar-family. If at any point of time the younger-brother/plaintiff wishes to sell his share of suit-property to anyone, then the said original-papers shall be shown by the elder-brother/defendant to the proposed-buyer thenceforth at the instance of the younger-brother/plaintiff.

22.It has been agreed between the parties-hereto that if at any point of time in future, the plaintiff & defendant mutually agree to get the entire-suit- property



reconstructed/redeveloped or to sell the entire-suit-property jointly, then the same shall be done by way of a mutual written- agreement between them; And in both the said eventualities ie joint-reconstruction/redevelopment or joint-sale, the said mutual written- agreement shall clearly state that both-parties (each) shall be entitled-to one-half (equal) share of suit-property to-be detailed/elaborated in the said proposed written-agreement at the relevant time; In case of reconstruction, the said prior written-agreement shall govern the division of newly-constructed property (on the plot of land where the present suit-property is situated) regarding the ownership/occupation of equal and separate portions thereof, and that of common-areas in the new building-premises/property proposed to be constructed a new; OR in case of joint-sale of entire suit-property (147, Sunder Nagar, New Delhi), then the sale-proceeds thereof shall be divided equally between Plaintiff & Defendant.

B. Above terms may be modified only if parties mutually agree in writing.

C. Both parties have categorically agreed that all the terms & conditions of this Settlement shall be equally binding on their respective legal heirs / family-members/successors in-interest also, and none of the parties (including their legal heirs/successors) shall do anything or create any right/execute any document(s) which maybe in-conflict/contrary-to any of the terms of this Settlement, and if any such document is ever executed by any party without the knowledge &written-consent of other party, then the contents- thereof which may prove to be in conflict with the spirit of any of the terms of the instant settlement, then the same shall be deemed as null & void, without any legal enforceability.



D. Both parties categorically agree that this is Full & Final Partition-Settlement between them, which takes care of all aspects of the suit-property; and now there remains no grievances/disputes/differences of any sort whatsoever, against each-other. Both parties have agreed that they shall always fully cooperate and extend all help to each other to comply with all the terms & conditions of the instant Settlement, for all intents and purposes, in letter & spirit.

E. Both parties categorically agree that, if any party-hereto violates any of the terms of this Settlement, then the said party shall be considered to be in contempt of Final-Decree of Partition passed by Hon'ble High Court in this matter.

F. Both parties hereby undertake that they shall always be bound by and abide by all the terms & conditions set out in this agreement and that they shall never dispute the same hereinafter in the future.

G. Both the parties have agreed that they shall request the Hon'ble Court to pass a Final-Decree in terms of the instant Settlement-Agreement.

H. Both parties agree that they have arrived at the present Settlement- Agreement out of their own free will & desire, and without any pressure, fraud, force, coercion or undue influence from any-quarter (including the other-party) and they undertake to be always bound by the terms hereof.

I. After the signing of the present settlement, the parties shall appear before the Hon'ble Court on next-date fixed in this matter (or earlier by moving an appropriate application) and jointly request the



Hon'ble Court to decree the suit in terms of the present-settlement, by making their statements accordingly and praying for the Suit CS(OS) No. 286/2019 to be decreed by way of a Final-Decree of Partition."

4. The Plaintiff and the Defendant are present in Court today. The Plaintiff and the Defendant have given their statement to this effect that the agreement has been entered into on their own will, without any undue influence or coercion. Statements of the Parties have also been recorded.
5. This Court has gone through the settlement agreement and is of the opinion that the settlement agreement can be implemented and is not contrary to law.
6. In view of the agreement entered into between the parties, the suit is decreed in terms of the settlement agreement. Let the decree sheet be drawn in terms of the settlement agreement.
7. The suit is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

NOVEMBER 20, 2024

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