



\$~24

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

+ **CS(OS) 422/2022 & I.As.11396/2022, 9714/2023**

SHRI SUNIL KUMAR Plaintiff

Through: Mohammad Abid, Adv.

versus

PADAM KUMAR AND ORS. Defendants

Through: Ms. Kirti Mewar and Ms. Himanshi
Goel, Advocates for D-1. (M:
7204073750)

Mr. Deepak Sharma, Adv. for D-2 to
6.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

%

09.04.2024

1. This hearing has been done through hybrid mode.

I.A. /2024 (u/O XXIII Rule 3 CPC) (to be numbered)

2. The present suit has been filed by the Plaintiff - Mr. Sunil Kumar seeking partition of the suit property bearing '**House No.78, Bank Enclave, Laxmi Nagar, Delhi-110092**'.

3. The parties to the suit are as under:

<i>S. No.</i>	<i>Name</i>	<i>Plaintiff/Defendant</i>
1	Shri Sunil Kumar	Plaintiff
2	Shri Padam Kumar	Defendant No.1
3	Shri Vijay Kumar	Defendant No.2
4	Shri Amit Gupta	Defendant No.3(i)
5	Shri Sanjay Dhanuka	Defendant No.3(ii)



6	Ms. Rajni	Defendant No.3(iii)
7	Ms. Rachna	Defendant No.3(iv)
8	Ms. Sangeeta	Defendant No.3(v)
9	Smt. Nirmal Dhanuka	Defendant No.4
10	Smt. Rajeshwari	Defendant No.5
11	Smt. Kiran Devi	Defendant No.6

4. The Plaintiff is claiming a 1/7th share of the suit property, which was bought by their father, late Shri Thakur Dass, with the conveyance deed executed in his favour on 13th September, 2001. Shri Thakur Dass passed away intestate on 9th February, 2004, leaving behind his wife, five sons, and one daughter. The Defendants in this case include his sons (Defendants no. 1 and 2), daughter (Defendant no. 5), wife (Defendant no. 6), and the legal heirs of two pre-deceased sons (Defendants no. 3(i) to (v) and 4). It is averred that a portion of the suit property is currently occupied by Defendant no. 1 and his family.

5. The Plaintiff is represented by Mr. Mohammad Abid, Id. Counsel. Defendant No.1 is represented by Ms. Kirti Mewar, Id. Counsel and Defendant Nos.2 to 6 are represented by Mr. Deepak Sharma.

6. An application under Order XXIII Rule 3 CPC has been filed. However, the same is under objections. Let the said application be brought on record, numbered and placed before the Court.

7. Id. Counsel for the Defendant No. 1 has handed over a hard copy of the same to the Court.

8. A perusal of the said application shows that the parties have entered



into a settlement, which has been reduced into writing as part of the Memorandum of Family Settlement (*'MoFS'*) dated 15th July, 2023. Parties have further entered into an addendum dated 7th March, 2024 to the said MoFS. The application is also accompanied by the affidavits of all the parties.

9. The Court has perused the MoFS as also the addendum. MoFS has listed all the properties— movable and immovable assets etc. and has set out the shares of the respective parties. The settlement is a comprehensive settlement, including the suit property. An addendum in respect of taxes, stamp duty, etc. has also been executed on 7th March, 2024.

10. The Court has perused the terms. The same are lawful and there is no impediment in recording the same. Though the present suit relates to only one property, keeping in mind the spirit of Order XXXII-A CPC, the MoFS is taken on record. It is directed that all parties and anyone acting for or on their behalf shall be bound by the settlement agreement and the addendum.

11. In respect of the property in question, the parties have agreed that this property shall exclusively belong to the first party i.e. the Defendant No.1, as stated in the MoFS.

12. The suit is decreed in terms of the MoFS as also the addendum dated 7th March, 2024. Let the decree sheet be drawn up accordingly. The suit is disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

APRIL 9, 2024/dk/rks