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

+ **CS(OS) 688/2024**

SMT USHA MAGOO

.....Plaintiff

Through: Mr. Anil K. Khaware , Ms. Azma
Zaidi And Yogendra Kumar Advs for
Plaintiff

versus

**SMT NEELAM BHOLA SINCE DECEASED THROUGH LRS &
ORS**

.....Defendants

Through: Mr. Rajeev Kumar, Adv

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

12.11.2024

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I.A. 44672/2024

1. This is an application under Order XXIII Rule 3 CPC on behalf of the parties for issuance of decree in terms of the settlement agreement dated 24.10.2024 entered into between the parties.
2. The present suit has been instituted seeking partition and declaration of property bearing No.14/73-B, West Punjabi Bagh, New Delhi-110026 admeasuring about 544.45 sq. yds.
3. It is stated that pending the suit, the parties have entered into an amicable settlement which has been reduced in writing. The settlement dated 24.10.2024 is reproduced in its entirety and the same reads as under:-

"TERMS OF SETTLEMENT"

*This present Terms of Settlement is executed at New
Delhi on 26th day of October 2024.*



BETWEEN

Smt. Usha Magoo, D/o Late Ram Nath Vij, C/o Shri No. 1583, 1st floor, C Block Sushant Lok-1, Sector-43 VTC Gurugram, P.O Galleria DLF-IV District: Gurugram (Haryana)-122022 (Aadhar No. 9543 8349 6260) HEREINAFTER CALLED FIRST PARTY and shall include, unless, the context is repugnant thereto, her Successor- in- interest, Legal Heirs, Legal Representatives or Assigns (In short referred to as First Party").

AND

1. Late Smt. Neelam Bhola (since deceased), D/o Late Shri Ramnath Vij, through her Legal heirs

i. Sandeep Bhola (Son), S/o Shri Jai Gopal Bhola & Late Smt. Neelam Bhola Rio House No. 48, Road No. 52, Punjabi Bagh, West, New Delhi-110026 (Aadhaar Number 415587959234)

ii. Navneet Bhola, S/o Shri Jai Gopal Bhola & Late Smt Neelam Bhola R/o House No. 48, Rond No. 52, Punjabi Bagh, West We Dethi-110026 (Aadhar Number 861972776634)

2. Smt Rama Saigal, D/o Late Shri Ramnath Vij, R/o F-4/2 A second floor, DLF Phase-1, DLF Shopping Mall, DLF City, Sikanderpur Ghoshi District: Gurugram (Haryana)-122002, Through her Husband/ SPA Namely SH. Raman Kumar Saigal (Aadhaar Number-9407 7402 0406), aged about 74 years.

3. Shri Bal Krishan, S/o Late Shri Ramnath Vij, R/o 14/73-B, West Punjabi Bagh, New Delhi-110026 Through His Son and SPA Shri Anish Vij (Aadhaar Number-7917 7164 9671, aged about 55 years.



HEREINAFTER REFERRED TO AS SECOND PARTY and first party and second party are referred to collectively as parties shall include unless the context is repugnant thereto, their successors in interest, legal heirs, legal representatives or assigns.

WHEREAS, the Late Shri Ramnath Vij was the exclusive owner of the property bearing no. 14/73, Punjabi Bagh, New Delhi-110026 admeasuring about 1089 sq. yds, vide sale deed dated 04.07.1970 (In short "said property") registered in the office of SR-I. Delhi as Regn No. 5194, Addl book No. I, Vol No. 2403, Page No. 62-66 from its previous owner. Late Shri Ramnath Vij had purchased the said property from his own resources.

AND WHEREAS, Shri Ramnath Vij father of the parties hereto has left for his heavenly abode on 02.01.1978, intestate and Smt. Raj Rani (Mother) also breather her last Intestate on 02.10.1984 respectively and has left behind the following class-I legal heirs:-

- (1) Ms. Neelam Bhola (Daughter)*
- (ii) Ms. Rama Saigal (Daughter)*
- (ii) Ms. Usha Magoo (Daughter)*
- (iv) Bal Krishan Vij (Son)*
- (v) Subhash Vij (Son)*

AND WHEREAS after demise of Shri Ramnath Vij, the said property was partitioned vide a deed dated 13.05.1991 equally between Shri Bal Krishan Vij (Son) and Subhash Vij (Son) measuring about 544,45 sq yds area each and known as 14/73 A 14/73 B West Punjabi Bagh, New Delhi-110026. The share of Subhash Vij as per that is 14/73 A West Punjabi Bagh, New Delhi-110026. Yet again the said partition is followed by the subsequent partition dated 18.10.2004 in the same manner as above. However, The First Party and Second Party (S.N 1 and 2) had no knowledge about the same.



AND WHEREAS therefore in the last semester of 2020, when for the first time, the first party i.e plaintiff and defendants no.1 and 2 Second party as per S.N 1 & 2) came to know about the partition between Shri Subhash Vij on the one hand and defendant no.3 shri Balkrishan on the other hand and then it was decided between the parties that as the said property was not formally partitioned, hence, a Disclaimer Deeds shall be executed by the sisters in favour of Shri Subhash Vij, qua 50% of the said property i.e 544.45 sq yds, known as 14/73 A, West Punjabi Bagh, New Delhi-110026 which was already under occupation of shri Subhash Vij.

AND WHEREAS as per the above understanding all the parties hereto plaintiff and defendants no.1 and 2 had agreed to give "No objection" to the 50% share in the said property in the name of Subhash Vij, known as 14/73 A Punjabi Bagh, New Delhi, in view of exigencies and therefore disclaimer deeds were executed by plaintiff and defendants no.1 and 2 in this regard in favour of shri Subhash Vij. As stated this was done, only as per the understanding that the property no. 14/73 B Punjabi Bagh (West), New Delhi shall be divided equally between the parties hereto and it was agreed that the modalities shall be finalized in this regard in due course.

AND WHEREAS parties hereto agreed to do so owing to the exigencies and due to acute and emergent need of Shri Subhash Vij, it was agreed that disclaimer deeds shall be executed qua 544.45 sq yds i.e of the said property i.e for East side of the property in favour of shri Subhash Vij. It was further agreed then, that as regards other remaining 50% of property i.e 14/73 B, Punjabi Bagh (West), New Delhi-110026, the property shall be divided equally, between the plaintiff and defendants herein and the parties shall sit together and



finalize the settlement between themselves on and by 31st December 2021. As Shri Subhash Vij was already accorded 50% of shares by all the parties, including the defendant no.3 (Second Party S.N 3), hence, it was agreed that remaining 50% of said property Le bearing no. which is a built up property and constructed upto first floor ("Suit property") shall be divided equally between the parties hereto. The site map and building of suit property is annexed as Document No. 1 & 2 along with the paper book of the present suit and may be treated as suit property. The "suit property" is therefore part of the said property originally purchased by the late father of the parties. The defendant no.3, who has been in possession of suit property also agreed to the understanding.

AND WHEREAS in the meanwhile, unfortunately on 22/01/2020, Smt Neelam Bhola had breathed her last and therefore disclaimer deeds dated 31/12/2020 were executed by the L.Rs of defendant no.1 and 2 in favor of Shri Subhash Vij in respect of property no. 14/73 A, Punjabi Bagh, New Delhi. The disclaimer deed was also executed by the plaintiff and defendant no.2 in similar manner.

AND WHEREAS Sari Subhas Vij has also left in heavenly abode on 14.06.2022. In any case, as the share defined as 14/73 A, Punjabi Bagh has attained finality as per the understating as stated above and as 50% of the share in the said property is already released in favour of Shri Subhash Vij (since deceased), therefore Shri Subhaali Viz through LRs is not made a party hereto as the part of the said property i.e. 14/73 B only remains the suit property and the present suit is filed in that regard.

AND WHEREAS, in this backdrop, the first party-plaintiff approached the defendant no.3 and other defendants for seeking their share in the suit property



in the ratio of 25% each, but, defendant no.3 though, remained agreeable all the while, but no action was being taken by him and the matter was getting delayed even after December 2021 and despite several meetings thereafter, when the partition was to be effected or shares were to be accorded to each party hereto.

AND WHEREAS in this backdrop, the present suit is filed for seeking partition & declaration to the effect that plaintiffs and defendants are entitled to 1/4 share in the suit property bearing no. 14/73-B West, Punjabi Bagh, New Delhi-110026 admeasuring about 544.55 sq yds and the suit is registered as CS(OS).688/2024 titled as SMT USHA MAGOO VS SMT NEELAM BHOLA & ORS and for other reliefs and the suit is pending adjudication before the hon'ble High Court of Delhi.

AND WHEREAS pursuant to notice to the suit issued to the defendants and by the hon'ble Delhi High Court and received by all the parties hereto that parties hereto with the intervention of friends and relatives and after series of meetings have decided to amicable settle the present dispute.

The parties hereto have therefore decided to settle the respect of the suit property in the following manner:

(1) That the parties hereto have settled the dispute between themselves and have agreed to seek judgment and decree to the effect that all the parties hereto shall have 1/4th undivided share each in the suit property le property bearing no.14/73 D, Punjabi Bagh West, New Delhi, and the aspect of partition and demarcation may be left open to the parties to settle between themselves in due course as the parties are sanguine about dividing and demarcating 1/4 share to their satisfaction between themselves.



(2) That as the suit property cannot be divided by metes and bounds as on today, still, the suit property or the respective shares shall not be sold by the parties hereto or any of the party. The parties hereto shall however in due course decide to construct additional floors in sync with the existing structure at first floor with a view to facilitate partition on some future date. The manner of determining shares on floors demarcation of shares in front lawn and back lawn shall be mutually decided by the parties. The parties does not foresee any hassle in this regard and in case of any dispute existing later, qua partition or demarcation, the parties shall be free to approach courts for this purpose,

(3) That as the suit property admeasuring about 544.45 sq yds is a built up Property and constructed up to first floor with driveway and lawn in front and back as is shown in the photographs annexed with the suit as DOCUMENT-2. The parties hereto agree and accept that the basic structure of suit property shall not be altered, unless each of the parties hereto subsequently agreed to in writing.

(4) That the parties hereto have decided to prefer a joint application for seeking recording of settlement before this hon'ble Court and pronouncement of judgment and decree.

(5) That the present terms of settlement is arrived at between the parties voluntarily and in their own accord and without any pressure from any quarter. The parties hereto have agreed to abide by and adhere to terms and condition of the settlement and it will be binding on the parties hereto.

(6) That Shri Jai Gopal Bhola, husband of Late Smt Neelam Bhola (Aadhar No. 8020 5093 0306) also



categorically records his No objection to the present terms of settlement.

(7) That the disputes, if any in respect of the present Terms of Settlement shall be adjudicated by the courts of Delhi/New Delhi alone.

The parties to this Terms of Settlement has set their hands in approval of and towards acceptance of the Terms of Settlement on the date and place first above written.”

4. The Plaintiff and the Defendants are present in Court today. The parties state that settlement has been entered into between the parties on their own volition, without any force or coercion. The statement is taken on record.
5. This Court has perused the settlement agreement and the same is in accordance with law.
6. Let the suit be decreed in terms of the settlement agreement entered into between the parties. The decree sheet be drawn accordingly.
7. In view of the above, the suit is disposed of in terms of the settlement agreement entered into between the parties.
8. The application is disposed of.
9. The next date already fixed before the learned Joint Registrar, i.e., 18.11.2024, stands cancelled.

SUBRAMONIUM PRASAD, J

NOVEMBER 12, 2024

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