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

+ **CS(OS) 397/2018**

KULDEEP KAUR AND ORS

..... Plaintiffs

Through: Mr. Udaibir Singh Kochhar, Mr.
Utsav Garg & Mr. Pushkar Khanna,
Advocates.

versus

GAJINDER SINGH KHURANA

..... Defendant

Through: Mr. Anish Shrestha, Mr. Firoz Khan
& Mr. T. Kipgin, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **01.02.2024**

I.A. 7494/2019 (u/O VII Rule 11 of CPC, 1908)

1. By way of present application, the applicant/defendant seeks various pleas in regard to the maintainability of the suit itself is being bared by limitation and also the applicant/defendant had become an owner by way of adverse possession.
2. Be that as it may, since the Preliminary Decree dated 26.04.2019 has already been confirmed by the Division Bench *vide* Order dated 09.12.2019 by dismissing the Appeal No. RFA(OS) 66/2019 filed on behalf of the defendant, the present application under Order VII Rule 11 of Code of Civil Procedure, 1908 has become infructuous having been filed after passing of the Preliminary Decree dated 26.04.2019.
3. Accordingly, the present application is dismissed as not maintainable.



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4. Learned counsels for the parties submit that an option may be given to either party to purchase the share of either party before the suit property is sold in the open market.
5. Considering that the suit property is not amenable to partition by metes and bounds as per the municipal laws, therefore, the suit property is directed to be sold and the proceeds therefrom shall be divided according to the respective share of the parties. However, before the suit property is sold in the open market, either party shall have the liberty to purchase the share of the other party on the prevailing market rate. In case, the public auction is done, the parties are at liberty to participate in the said process of auction.
6. Accordingly, the Final Decree is hereby passed in the aforesaid terms.
7. The Decree Sheet be prepared accordingly.

NEENA BANSAL KRISHNA, J

FEBRUARY 1, 2024

S.Sharma