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

+ **CS(OS) 320/2022 & I.A. 11164/2025**

**SMT ANITA SAINI & ANR.**

**.....Plaintiffs**

Through: Mr. Preet Pal Singh, Ms. Tanupreet  
Kaur, Ms. Unnati Sinha, Advs  
Plaintiffs in person

versus

**SH MAYANK GUPTA & ORS.**

**.....Defendants**

Through: Mr. Akshit Aggarwal and Ms. Ishika  
Gupta, Mr. Daman Yadav, Advs. for  
D-1.  
Local Commissioner, Mr. Pramod  
Saigal  
Defendants in person

**CORAM:**

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

**ORDER**

**% 05.05.2025**

**CS(OS) 320/2022**

**I.A. 11164/2025(joint application by the parties under Order XXIII Rule 3  
CPC for recording settlement and disposing of in terms of the settlement  
dated 27.01.2025)**

1. The present application has been jointly filed by all the parties under Order XXIII Rule 3 of Code of Civil Procedure, 1908 ('CPC'), seeking recording of the settlement and passing of a decree in terms of Memorandum of Family Arrangement ('MOFS') dated 27.01.2025.
2. Learned counsels for the parties state that in order to preserve family harmony and avoid further litigation, the parties have amicably resolved all their inter se disputes relating to the estate of Late Shri Rajinder Kumar Gupta and Late Smt. Asha Gupta, both moveable and immoveable, by way

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of an oral family arrangement dated 09.01.2025, which has been duly reduced into writing through the MOFS dated 27.01.2025.

3. A copy of the MOFS dated 27.01.2025 has been handed over in Court and is taken on record.

4. It is stated that the subject matter of the MOFS includes the estate of the deceased parents comprising inter alia the following immovable properties:

- a. B-122, Khasra No. 13/10, Gali No. 12, Swaroop Nagar, Near Shiv Mandir, Delhi admeasuring 200 sq. yds. (**'B-122'**);
- b. B-123, Khasra No. 13/10, Gali No. 12, Swaroop Nagar, Near Shiv Mandir, Delhi admeasuring 200 sq. yds (**'B-123'**);
- c. Shop No. 20, Khasra Nos. 23/13 and 16, Gali No. 6, Block A, Swaroop Nagar, Landmark, near Bikaner Sweets, Delhi admeasuring 100 sq. yds.;
- d. Plot Nos. 22–23, Khasra No. 144, near Masjid, Vijay Chowk, Burari Road, Delhi admeasuring 300 sq. yds.

5. It is stated that Defendant No. 1, has retained full ownership of B-123, Khasra No. 13/10, Gali No. 12, Swaroop Nagar, Delhi, in exchange for relinquishing all rights in remaining three properties at serial nos. (a) (c) and (d) above. It is stated that the Plaintiff Nos. 1 and 2 along-with Defendant Nos. 2 and 3 have become co-owners of the said remaining three (3) properties at serial nos. (a) (c) and (d) above with equal undivided shares.

5.1 It is stated that the parties have further agreed to the distribution of Gold in a locker at Kotak Mahindra Bank, Guru Harkishan Nagar, New Delhi in the ratio of 50% to Defendant No.1 and 50% to be equally shared between Plaintiffs Nos.1 and 2 and Defendant Nos. 2 and 3

5.2 It is stated that the Defendant No. 1 has undertaken to clear all

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pending water, electricity, house tax and other statutory dues in respect of property B-122 till the date of its actual handing over of peaceful physical possession.

6. Mr. Pramod Saigal, learned Local Commissioner appointed in this matter, has handed over a Note regarding pending obligations of the parties to be undertaken under the MOFS dated 27.01.2025, which reads as under:

“1. That properties being Plot No. B-122 and B-123, K. No. 13/10, Gali No. 12, Swaroop Nagar, Near Shiv Mandir, New Delhi, admeasuring 200 Square Yards have been transacted through a joint /single title document. The Original title documents are to be retained by Ms. Anita Saini, Plaintiff No. 1 as per the Memorandum of Settlement. **The Notarized copies of all the chain documents pertaining io title of above said properties have been handed over by her to all the other parties including the Plaintiff No. 2, Defendant No. 1, 2 und 3 through the Local Commissioner.** In case any of the parties requires to show the Original Documents to any authority or prospective buyer, Ms. Anita Saini undertakes to provide access to the same to that party. Since B-122 has gone to all the sisters, they say they have full faith in their eldest sister Ms. Anita Saini and the documents be kept with her.

2. As per Clause 13 (ix) of the Memorandum of Family Arrangement, the obligation to pay pending utility charges till the handing over of property No. B-122 by Defendant No. 1 (Mayank Gupta) to the sisters i.e., Plaintiff No. 1 and 2, Defendant No. 2 and 3 till the date of handing over the actual physical and peaceful possession is upon the Defendant No. 1.

3. *"ix. That the house tax, water and electricity charges, and other dues and demands of whatsoever nature if any payable in respect of the aforesaid property No. B-122, Khasra No. 13/10, Gali No. 12, Swaroop Nagar, Near Shiv Mandir, New Delhi under occupation of the Party of the Second Part (Mr. Mayank Gupta) and / or his tenants shall be borne and paid by the Party of the Second Part upto the date of handing over the actual vacant physical and peaceful possession of the same to the Party of the First ) and thereafter the Party of the First Part shall be responsible for payment of the same."*

4. There are some water consumption bills pending for the aforesaid properties, which have been in possession and occupation of the Defendant No: 1 (Mr. Mayank Gupta) and his tenants. The Defendant No. 1 shall pay the same till the handing over of the keys of the said

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property by him to the sisters i.e., 04.04.2025.

5. There are six (6) electricity meters installed at plot No. B-122.

| S.No. | C.A. No.    | In the name of                                                                                                                                                                                                 | Amount Due                      |
|-------|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| 1.    | 60018682660 | Mr. Mayank Gupta installed at B-122-123, (Right Portion Ground Floor of B-122) in occupation of Mayank Gupta till 05.04.2025. (Power Purchase Cost Adjustment Charges for the period 23.04.2024 to 22.01.2025) | 47,080/-<br>Due Date 28.04.2025 |
| 2.    | 60006851020 | In the name of Mrs. Asha Gupta (deceased mother of parties) installed at B-122, in occupation of the tenant inducted by Mayank Gupta keys handed over on 04.05.2025                                            | Amounts pending till 04.05.2025 |
| 3.    | 60009572474 | Same as above                                                                                                                                                                                                  | Amounts pending till 04.05.2025 |
| 4.    | 60009572276 | Same as above                                                                                                                                                                                                  | Amounts pending till 04.05.2025 |
| 5.    | 60005403965 | Same as above                                                                                                                                                                                                  | Amounts pending till 04.05.2025 |
| 6.    | 60006945731 | Same as above                                                                                                                                                                                                  | Amounts pending till 04.05.2025 |

6. Electricity Bill of **Rs.2,900/-** in respect of CA No. 60028240574 dated 03.05.2025 installed in the name of Ms. Praveen Bansal and Mr. Mayank Gupta at **Shop No. 20**, K. No. 23/13, and 16, Gali No. 6, Ground Floor, Block- A, Swaroop Nagar, Landmark, near Bikaner Sweets, Delhi admeasuring 100 Sq. Yards.”

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7. Parties to the suit are present in Court and have been duly identified by their respective counsels. They confirm due execution of the MOFS dated 27.01.2025 and the contents of the Note of the Local Commissioner.

8. This Court has interacted with the parties and is satisfied that the MOFS dated 27.01.2025 has been duly executed by them of their own volition and without any coercion or undue influence and parties are satisfied with the settlement arrived at between them.

9. Defendant no. 1 has handed over the vacant possession of property No. B-122 to plaintiff no. 1, today. Defendant no. 1 further undertakes to clear all charges including utility charges and property tax charges for B-122 until today.

10. The plaintiffs undertake to waive the user charges that were otherwise payable by Defendant No. 1 for the delay in handing over possession of Property No. B-122, in terms of the MOFS. This statement is taken on record and the plaintiffs are bound down to the same.

11. The parties have jointly offered to pay additional fee of Rs. 75,000/- to Mr. Pramod Saigal, the learned Local Commissioner and they place on record their appreciation for the constructive role played by the Local Commissioner in enabling the parties to arrive at a settlement. This statement is taken on record and this Court also records its appreciation for the Local Commissioner's role.

12. It is directed by this Court that the additional fee of Rs. 75,000/- payable to the Local Commissioner shall be shared equally by the five parties, i.e., each party shall pay Rs. 15,000/-.

13. This Court has perused the MOFS dated 27.01.2025 and the Note

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submitted by the Local Commissioner. This Court is satisfied that the MOFS dated 27.01.2025 executed between the parties satisfies the requirement of Order XXIII Rule 3 of CPC and therefore, this Court finds no impediment in decreeing the suit in terms of the settlement.

14. The parties are bound down to the settlement recorded in the MOFS dated 27.01.2025 and their undertakings are accepted.

15. Consequently, the underlying suit is decreed in terms of the MOFS dated 27.01.2025, executed between the parties, which shall form the part of the decree and marked as **Ex. 'C-1'**.

16. The registry is directed to draw up a decree in terms of this order.

17. It is directed that the original of the MOFS dated 27.01.2025 and this application I.A. 11164/2025 will be retained by the plaintiff no. 1 for the benefit of all the parties. The certified copy of the MOFS dated 27.01.2025 e-filed with this Court and I.A. 11164/2025 will be considered to be its true original.

18. Pending applications stand disposed of.

19. Interim order, if any, shall stand merged in the decree.

20. The 29.05.2025, date already fixed before learned Joint Registrar (J) stands cancelled.

**MAY 5, 2025/mt/akp**

**MANMEET PRITAM SINGH ARORA, J**

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

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