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

Date of decision: 08.05.2025

+ RFA(OS) 26/2025

ASHOK KUMAR GUPTA (SINCE DECEASED) THROUGH
HIS LRS.Appellant

Through: Mr.M.B.Harikant, Adv.

versus

SURESH CHAND GUPTA (SINCE DECEASED) THROUGH
HIS LRS.Respondent

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE MANOJ JAIN

NAVIN CHAWLA, J. (ORAL)

CM APPL. 28012/2025 (Exemption)

1. Allowed, subject to all just exceptions.

RFA(OS) 26/2025 & CM APPL. 28011/2025, 28013/2025

2. This appeal has been filed by the appellant, praying for the following relief:

“a) allow, the present Memorandum of Appeal and “Modify” or “Vary” the Judgment, Order and Decree passed in CS (OS) No. 2846 of 2014, dated 16/11/2022, up to the extent of partition by metes and bounds, in the suit property, as per the respective shares/portions and physical possession mutually agreed and divided between the original parties to the suit, since the beginning



*of construction of the suit property during life time of original parties in the suit; **(Modification or Varying the said Judgment, Order and Decree dated 16/11/2022, is prayed for, up to the extent of partition, instead of selling both the portions in the suit property jointly).***”

3. The appeal has been filed with a delay of 865 days.
4. The order dated 16.11.2022 reads as under:

“1. Vide order dated 28th July, 2022, a Local Commissioner was appointed to determine whether the suit property can be partitioned by metes and bounds.

*2. A report has been filed by the Local Commissioner, **in terms of which it has been agreed between the parties that the property should be jointly sold and the proceeds thereof be divided between the parties.***

3. Accordingly, a final decree of partition of property No. ND-31, Pitampura, Delhi — 110034 is passed, of sale of the property and by distribution of the sale proceeds in terms of the preliminary decree passed by this Court on 1st October, 2018, whereby the plaintiff shall be entitled to 50% share of the sale proceeds and the legal heirs of the original defendant collectively shall be entitled to 50% share of the sale proceeds.

*4. **It is further agreed between the parties that the parties shall jointly sell the property and shall have the liberty to bring their own purchasers for the sale of the suit property, with the property being sold to the purchaser quoting the highest price.***

5. No costs.

6. Decree sheet be prepared.

7. All pending applications stand disposed of.”

(Emphasis supplied)

5. A reading of the above would show that there was a settlement



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of disputes between the original plaintiff and original defendant and the above order was passed with the consent of the parties.

6. The appellants are the legal heirs of the defendant in the Suit. There appears to be some disputes between the legal heirs of the original defendant, and for their *inter se* disputes, the legal heirs of original defendant cannot re-open the Decree.

7. Even otherwise, we find no reason to condone such a huge delay in filing the appeal.

8. The appeal is accordingly dismissed, both on account of delay and for lack of merits. Pending applications are also disposed of.

NAVIN CHAWLA, J

MANOJ JAIN, J

MAY 8, 2025/Arya/VS

Click here to check corrigendum, if any