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

+ RFA 571/2024

SH. HARSH KUMAR AGGARWAL (DECEASED) THROUGH
HIS LR MRS. KIRAN AGARWALAppellant

Through: Mr. Amit Seth, Advocate via video-
conferencing.

versus

PREM NARAIN AGGARWAL (SINCE DECEASED) THROUGH
LRS & ORS.Respondents

Through: Mr. Jeevesh Nagrath, Sr. Advocate
with Mr. Arjun Gaur and Ms. Nitya
Maheshwari, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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15.07.2025

CM APPL. 34649/2025

By way of the present joint application filed under Order XXIII Rule 3 read with section 151 of the Code of Civil Procedure 1908, the appellant and respondents seek disposal of the present appeal in terms of the Memorandum of Family Settlement which the parties have digitally signed on various dates since they reside in different parts of the world. A copy of Memorandum of Family Settlement is appended as Annexure-2 to the present application.

2. Mr. Amit Seth, learned counsel appearing for the appellant and Mr. Jeevesh Nagrath, learned senior counsel appearing on behalf of the respondents draw attention to the terms contained in the Memorandum of Family Settlement.



3. Counsel have also drawn attention to the fact that during the pendency of the present appeal impugning preliminary decree dated 20.08.2024, a final judgment dated 18.01.2025 has also been passed by the learned trial court, a copy of which has also been placed on record. It is submitted that the final decree is yet to be drawn-up.
4. Counsel submit that by reason of the settlement arrived-at between the parties, the terms of the preliminary decree *and* the final judgment may be modified in the terms as contained in the Memorandum of Family Settlement.
5. Mr. Nagrath has also drawn attention of this court to the decision of the Supreme Court in ***Sital Parshad vs. Kishorilal***¹, in particular para 5 of that judgement, to submit that the court seized of an appeal against a preliminary decree is also empowered to adjudicate upon the final decree, that comes to be passed during the pendency of the appeal.
6. The joint application has been signed by all the parties. The application is also supported by the affidavits of all the parties.
7. In the circumstances, the present appeal is allowed, thereby modifying preliminary decree dated 20.08.2024 and final judgement dated 18.01.2025 in the terms contained in the Memorandum of Family Settlement *qua* the properties that were the subject matter of the suit.
8. The parties shall remain bound by the terms contained in the Memorandum of Family Settlement.

¹ (1967) SCC OnLine SC 262



9. The application stands disposed-of.

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10. The Amended Memo of Parties stated to have been filed by the appellants, in compliance of order dated 02.09.2024, is permitted to be brought on record.
11. The present appeal is disposed-of in terms of the order passed above.
12. Final decree be drawn-up in terms of the Memorandum of Family Settlement signed between the parties.
13. Pending applications, if any, also stand disposed-of.
14. The date of 31.07.2025 given earlier, stands cancelled.

ANUP JAIRAM BHAMBHANI, J

JULY 15, 2025

V.Rawat