

04.12.2025

Present: Sh. Ayush Chauhan and Ms. Tia Sachdeva, Ld. Counsel for the plaintiff no. 2A.
Sh Gurtej Pal Singh (through VC) Counsel for LR's of defendant no. 1C(a) to 1C(d).
Sh. Gaurav Gupta (through VC) Ld. Counsel for 1B(i), 1D, 1E, 2A, 2B, 3B, 3C, 4A and 4B with Sh Abhishek Verma.
Sh. Mayank Bansal Ld. Counsel for Lrs of defendant no. 11 a/w Sh Rajiv Jain.
Sh S S Jain Ld. Counsel for the defendant no. 10 a/w defendant no 10(d).
Ms. Amita Singh, Ld. Counsel for the M/s Urban Improvement Company Pvt Ltd. (through VC)

An application has been filed by the plaintiff u/o 22 Rule 4 CPC seeking impleadment of the LR's of defendant no 3 (C) i.e. Sh Rakesh Kumar Jain who is stated to have expired in the month of October 2025 and is survived by his wife Smt Meena Jain, son Atuleya Jain & daughter Ms Archana Jain.

Ld Counsel appearing on behalf of the said LR's submits that he has no objection in case the said LR's are impleaded. Since the present suit is a suit for partition and right to sue survives in favour of 3 LR's of Sh Rakesh Kumar Jain hence the present application u/o 22 rule 4 CPC is allowed and the said LR's i.e. Smt Meena Jain, Sh Atuleya Jain & Ms Archana Jain are taken on record.

Amended memo of parties i.e. dt 04.12.2025 filed and the same is taken on record.

With the consent of the parties the following applications are being taken up mainly pertaining to the objections to the 3rd LC report (interim report dt 25.10.2008 & final report dt 24.01.2009). The details of the said applications are as follows:

- a) Objections to the interim LC's report was filed on behalf of plaintiff no 2 and defendants no 1 to 5 & 6 dt 28.11.2008.**
- b) Objections to the interim report dt 25.10.2008 and also to the final report dt 24.01.2009 were filed by plaintiff no 2 dt 19.02.2009.**
- c) Objections to the final report dt 24.01.2009 were also filed by Sh Arun Kumar Jain (defendant no 2(a) as per the Amended memo of parties dt 04.12.2025)**
- d) Objections to the said final report dt 24.01.2009 were also filed on behalf of LRs of defendant no 11 dt 14.12.2009.**

Defendant no 10 had filed reply to the objections as raised by plaintiff no 2. No reply to the objections as raised by defendant no 11 and also of Arun Kumar Jain was filed by defendant no 10 who alone was in favour of the interim as well as the final LC report.

It is worth mentioning that based upon the said interim as well as the final LC reports dt 25.10.2008 & 24.01.2009 various applications/objections/compliance report/applications were filed by the parties which are as follows:

- 1) Objections to the map/site plan as filed by the Architect on behalf of defendant no 10 & 11.**
- 2) Compliance report/application in terms of orders dt 19.12.2013 filed by LRs of plaintiff no 2.**
- 3) Application u/s 151 CPC on behalf of defendant no 10 to bring on record the identity with demarcation of the suit property together with site plan and complete measurement by appointing Patwari/official of L&DO/Govt approved Architect.**

-3-

- 4) Application dt 07.03.2009 on behalf of defendant no 11 seeking filing of the fresh LC report considering the factum of creation of 3rd party rights in shop no F-4.**
- 5) Application dt 05.02.2009 filed u/s 151 by plaintiff no 2 seeking directions to the Ld LC to supply the copy of site plan and video tape.**

The parties jointly have submitted that in view of the changed circumstances i.e. creation of 3rd party rights and interest with respect to shop bearing no F-4, they have no objection in case the interim as well as the final LC report dt 25.10.2008 and 24.01.2009 are set aside. They have also submitted that with the setting aside of the said LC reports, the application mentioned at serial no 1 to 5 (Supra) have become infructuous. Accordingly with the consent of the parties the interim as well as the final LC report dt 25.10.2008 and 24.01.2009 are set aside. Consequent with the setting aside of the interim as well as the final LC report dt 25.10.2008 and 24.01.2009 the applications mentioned at serial no 1 to 5 are also dismissed being infructuous.

Under the circumstances, it is deemed appropriate that **Sh. Vinay Khanna former Ld Principal District & Sessions Judge having Mobile no 9910384719 having office at LGF-front, S 196, Block S, Panchsheel Park South, New Delhi 110017 be appointed as a Local Commissioner to suggest ways and means to partition the entire suit property as per the declared shares in terms of the preliminary decree dt 02.01.1980. For the convenience of Ld LC, let an amended memo of parties filed today i.e. 04.12.2025 be provided to the Ld LC alongwith order of the court passed on 17.09.2025.**

-4-

It is specifically brought to the notice of Ld LC that the suit property comprises of the built as well as the unbuilt portion. Litigation with respect to the unbuilt portion of the suit property is pending before Hon'ble High Court of Delhi i.e. a suit for specific performance and also a suit for cancellation of agreement to sell as well as seeking possession. It is also specifically brought to the notice of Ld LC that during the pendency of the present proceedings undivided shares of the

parties except defendant no 10 & 11 in shop bearing no F-1, F-2, F-4, F-5 & F-6 situated at the ground floor have been sold. It is also specifically brought the notice of Ld LC that one shop i.e F-7 ground floor has been sold by all the parties to the present suit. The Ld LC is free to determine the appropriate course of action in as much as suggesting ways and means to partition the suit property. The Ld LC is free to engage the services of an Architect/valuer whose out of pocket expenses shall be borne by the parties in proportion to their respective shares. The Ld LC shall be free to visit the suit property in which eventuality the SHO concerned to provide to provide police aid to Ld LC and all the parties including the tenants/occupants are directed to render their full cooperation to the Ld. Local Commissioner.

The present order has been passed with the full consent of all the parties who are directed to appear before the Ld LC on 12.12.2025 at 4:00 pm.

The fees of the Local Commissioner is fixed at Rs. 1,50,000/- to be paid equally by all the parties in equal proportion well in advance before the

-5-

date of the execution of the commission. The Ld LC shall be also entitled to all the out of pocket expenses incurred by the Ld LC.

Copy of the order passed today be communicated to Ld LC by the parties for which a dasti copy of the order is provided to the parties.

Re-notify the matter for further proceedings on 23.12.2025 at 2:00 pm.

**(Sachin Sood)
DJ-01 (Central)
THC, Delhi/04.12.2025.**