

CS 1749/16

PRATIBHA SHARMA Vs. INDU SHEKHAR

11.08.2023

Present: Sh. Vijay Kumar Rana, Id. Counsel for plaintiff with plaintiff.
Sh. Manmohan Satija, Id. Counsel for defendant no. 1.
Sh. Gagan Kumar Singhal, Id. Counsel for defendant no. 2 with defendant no. 2.

An application u/o 8 rule 10 CPC has been filed on behalf of the plaintiff.

It is submitted that WS filed by defendant no. 1 in the present case has not been filed within statutory time and same may not be taken on record.

However, during arguments, counsel for the plaintiff submits that he has no objection in case the WS filed by defendant no. 1 is taken on record subject to heavy cost.

It is further submitted that defence of defendant no. 2 has already been struck off vide order dated 03.07.2015. It is further submitted that plaint has been amended by the plaintiff and he has no objection if the WS filed on behalf of defendant no. 2 be also taken on record subject to cost.

Arguments heard.

It is well settled law that a matter should be decided on merits.

Moreover, in the present case, issues are yet to be framed. Suit is at its initial stage and also the present suit is a partition suit in which the rights of both the parties are to be decided.

WS of both the defendants no. 1 and 2 be taken on record subject to cost of Rs.10,000/- each. Same be paid by defendant no. 1 and 2 to the plaintiff on the NDOH.

Application u/o 8 rule 10 CPC stands disposed off.

List for filing of replication, A/D of documents and framing of issues on 22.09.2023. A/D of documents be filed in the form of affidavit by both the parties.

(Arun Goel)
ADJ-03, Shahdara
KKD Courts, Delhi
11.08.2023