

16.07.2026

At 10:44am

Present: Ms. Sakshi Jain, Ld. Counsel for plaintiff.

None for D-1.

None for D-2 to D-4.

Ms. Swati, Ld. Local Commissioner.

Report filed.

Local Commissioner's report perused. As per report, the suit property cannot be partitioned between the parties by metes and bounds as the nature and dimensions of the suit property do not permit an equitable physical division, therefore, the suit property be put to sale through public auction and the sale proceeds thereafter be divided amongst the parties as per their shares.

Ld. counsel for plaintiff concedes that the suit property cannot be partitioned between the parties by metes and bounds. She further submits that the suit property be put to sale through public auction.

Heard. File perused.

In case of "**Hasham Abbas Sayyad Versus Usman Abbas Sayyad and others**" reported as (2007) 2 SCC 355, the Hon'ble Apex Court held that

"without drawing a final decree the Court could not have put the property on auction sale". Thus, the property can be sold only in the execution proceedings and not during the inquiry under Order 20 CPC".

(2)

Considering the report of LC & submissions of Ld. Counsel for plaintiff, this Court is of the considered opinion that the suit property cannot be partitioned amongst plaintiff and defendants by metes and bounds and therefore, **the suit property bearing No.170-A, part of Kharsa No.198, Gali No.6, Mandoli Road, Jagatpuri, Shahdara, Delhi-110093 be put to sale through auction in execution and the sale proceeds thereof be divided among the parties to the present suit as per their share mentioned in the preliminary decree dated 06.06.2026.**

The final decree in this case is required to be engrossed upon non-judicial papers as an order of sale in a partition suit passed u/s 8 of the Partition Act in an instrument of partition u/s 2(15) of the Stamp Act and required to be stamped in accordance with Article 45 of the Schedule thereof. **Parties are directed to place on record the non-judicial stamp papers of requisite amount, in accordance with their share.**

If one party or more than one party fails to deposit, the non judicial stamps paper of their respective shares, then the other party(ies) is/are at liberty to file the non judicial stamp paper of the value of the defaulting party and the amount so spent by such party(ies) shall be recoverable as a cost and the auction amount of the defaulting party(ies) shall be reduced accordingly against the said cost and shall be paid to the party who has borne the expenses of the defaulting party.

Decree Sheet be prepared upon deposition of the non-judicial stamp papers by the parties as per law and thereafter suit property be put to sale through auction and sale proceeds be

(3)

divided among the parties to the present suit as per their share mentioned in Preliminary Decree dated 06.06.2026.

The final decree is accordingly passed in the present suit.

File be consigned to record room after due compliance.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
16.07.2026