

Ms. Asha Dixit vs. Pradeep Kumar Sharma And Anrs.
CS no. 517109/16

26.09.2016

Present:- Sh. Ajay Dabas, Ld. Counsel for plaintiff.
Sh. Bijendra Singh, Ld. Counsel for defendant no.1.
Sh. Jitender Chowdhary, Ld. Counsel for defendant no. 2.

It is submitted by the counsel for defendant no. 2 that there is an application for modification of the order dated 23.09.2015 along with application Under Order 8 Rule 1 CPC for the condition of delay in filing the WS are pending.

It is further submitted by Ld. Counsel that both the applications could not be traced out on record but same were filed before the Hon'ble High Court of Delhi at E- filing Counter. Ld. Counsel for both the parties argued straightway on the applications. By way of application defendant no. 2 sought permission to file the WS as the same could not be filed as opportunity to file WS was closed on 23.09.2015.

It is submitted by Ld. Counsel for defendant no. 2 that WS could not be filed due to the reason that documents could not be supplied by plaintiff in time and prayed for modification of order by giving an opportunity to file WS on behalf of defendant no. 2 in the interest of justice.

In view of the submissions, on being asked the plaintiff about their objections qua filing of WS at this stage, Ld. Counsel for plaintiff do not have any objection if same be allowed with heavy exemplary cost.

In view of the submissions and considering the submission of the parties and the fact that the matter is a partition suit application is

allowed in the interest of justice subject to cost of Rs. 15000/- to be paid to plaintiff.

Defendant no. 2 is directed to supply advance copy of affidavit at least 15 days prior to next date of hearing to plaintiff and shall file the WS on record accordingly.

Let matter be put up for filing replication, if any/ admission & denial of the documents/ framing of issues on **07.11.2016.**

(Sanjay Khanagwal)
ADJ-03, Dwarka Courts,
New Delhi/26.09.2016