

06.03.2019

Present: None for plaintiff.
 Counsel for defendants 1,2,3 & 5.
 None for defendant no.4(stated to be proforma defendant)
 Defendant no. 6 already expired.

1. This is a suit for partition, filed by the grand daughter against her paternal uncle and aunts(Chacha & Buas), including grand mother.

2. The plaintiff has claimed 1/6th share in the suit property. In the written statement jointly filed by the defendants no.1,2,3 & 5, they have stated that defendants no.1 to 4 have already relinquished their shares in the suit property by way of registered relinquishment deed, in favour of defendant no.5. Defendant no. 4 has not appeared in the court despite her service.

3. Plaintiff has moved an application for deletion of name of defendant no.4, on the ground that she has already relinquished her share in the suit property in favour of defendant no.5. This is a suit for partition of the suit property, stated to be owned by Shri Rajender Kumar Sharma, therefore, all his children/LRs are necessary parties in the suit, hence, defendant no. 4 cannot be deleted from the array of the parties. It is correctly submitted by counsel for plaintiff and counsel for defendants no.1,2,3 & 5 that the suit of the plaintiff has been entirely admitted by the defendants appearing in the court. Plaintiff and defendants no.1,2,3& 5 have also stated that defendant no. 4 has executed a relinquishment deed in favour of defendant no.5, but defendant no. 4 has neither appeared in the court nor has filed her affidavit, thereby admitting the

execution of relinquishment deed in favour of defendant no.5. Therefore, this court deem it appropriate that before deciding the application u/o 12 rule 6 CPC, the necessary affidavit be filed by the defendant no.4 regarding the relinquishment deed. It is defendant no.5 who is relying upon the relinquishment deed executed by defendant no.4 in his favour, therefore, it is directed that defendant no.5 will procure the affidavit of defendant no.4, regarding the said relinquishment deed and will file the same in court on or before the next date.

Put up for further proceedings, on 03.04.2019.

(Charu Aggarwal)
ADJ-03/West Distt./THC/Delhi
06.03.2019