

19.07.2025

Matter received by way of transfer with the order of Ld. Principal District & Sessions Judge (West District) No. 822/16924-16943/Cases transfer/Gaz./ PDJ West/2025 dated 09.06.2025 in pursuance of Hon'ble High Court of Delhi, New Delhi posting/transfer Order No. 15/D-3/Gaz.IA/DHC/2025 dated 30.05.2025. It be checked and registered as per rules.

Ahlmad has not tagged the file properly. Ahlmad and Reader are directed to tagged the file as per Hon'ble High Court Rules before putting it for the day. Reader is directed to flag the applications which are listed for arguments alongwith their reply in advance. Proper cause list is not maintained by the Reader and the purpose for the day fixed is not properly mentioned. Reader is directed to mention the matters under the correct heading in the cause list. Ahlmad is directed to put IA numbers on all the pending applications.

Present : Shri Gurjeet Singh, Ld. Counsel for the plaintiff.

Shri Harsh Kumar Sachdeva & Shri Pankaj Gaba, Ld.
Counsel for defendant.

Ld. Counsel for the plaintiff has today filed an application for placing on record the site plan. However, the site plan annexed with the application is neither as per scale nor prepared by any Draughtsman. Counsel for plaintiff submits that he himself has prepared the site plan. Further, he undertakes to place on record to the scale site plan after

Contd...2

getting it prepared from the draughtsman.

Site plan as per scale has been filed by defendant no. 1 but the same is only for shop no. 1 i.e. part of the suit premises. The suit premises consists of shop no. 1 and 2 both.

Vide order dated 05.10.2021, a preliminary decree of partition was passed whereby the plaintiff got 1/3rd share and both the defendants got 1/3rd share each. However, Defendant no. 2 has relinquished her share in favour of defendant no. 1, so presently defendant no. 1 is entitled to 2/3rd share. Parties have already given suggestion regarding mode of partition and valuation of suit property as mentioned in the order dated 05.04.2025. The parties have failed to file any site plan or suggests any mode of partition.

Accordingly, **Shri Ajay Kumar, D-1448/02, having Chamber no. 563, Western Wing, Tis Hazari Courts, having mobile nos. 9891135775 and 9911979305** is appointed as Ld. Local Commissioner with direction to visit the suit property bearing Shop no. B-4/1, Shop no. 1 and B-4/1 Shop no. 2, Ramesh Nagar, West Delhi and apprise the Court regarding feasibility of partition of the suit property by metes and bounds.

The Local Commissioner shall visit the suit property on any working day between 09:00 AM to 05:00 PM after giving notice to the parties. The parties are directed to co-operate and facilitate the inspection. In case, the need so arise, the local commissioner can approach the local police station for police aid. The concerned SHO shall provide the police

Contd...3

aid for smooth inspection of the suit property. The fee of the local commissioner is fixed at **Rs. 15,000/-** to be borne Rs. 5,000/- by the plaintiff (1/3rd share), and Rs. 10,000/- by the defendant no. 1 (2/3rd share). The Local Commissioner shall do the following:-

1. The Local Inspect the property and give his opinion as to whether the property can be divided by metes and bounds in three shares.
2. If yes, then he shall prepare a proposed site plan.
3. He shall also file the report qua the present market value of the property.

The Ld. Local Commissioner can take the assistance of an architect, if required. The fees of the architect shall be paid separately to be borne by the parties as per their shares i.e. 1/3rd by the plaintiff and 2/3rd by the defendant no. 1. The parties are directed to contact the Ld. Local Commissioner within one week for fixing the date and time for the inspection, failing which the Ld. LC can fix the date and time as per his convenience. In that scenario, Ld. LC shall intimate the date and time to the parties atleast three days prior to the visit. The Ld. Local Commissioner shall file four copies of the report and coloured site plan before NDOH. In the event of the fact that if a party or any of the parties fails to pay the fee of Local Commissioner in respect of their respective share, then the other party is at liberty to pay the same and the amount so spent by a party shall be recoverable as costs in the execution proceedings. The Local Commissioner shall furnish the report in sealed envelope.

Contd...4

Copy of this order be forwarded to the Ld. Local Commissioner and be given dasti to both the parties.

At this stage, Ld. Counsel for the defendant no. 1 submits that the share of the plaintiff has been auctioned in an execution proceeding and he will file copy of the execution proceedings in the Court wherein, the share of plaintiff has already auctioned with advance copy to the Counsel for the opposite party.

Put up for report of the Local Commissioner and for consideration on the aspect of passing of final decree of partition on **14.08.2025**.

SUSHEEL BALA DAGAR
DISTRICT JUDGE-08
WEST/DELHI/19.07.2025