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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RFA 13/2023

SUDHIR KISHAN GUPTA

..... Appellant

Through: Mr. Abhishek Aggarwal,
Advocate.

versus

SURENDER KISHAN GUPTA AND ORS..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **10.01.2023**

C.M. APPL. 910/2023 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

RFA 13/2023 & C.M. APPL. 909/2023 (Stay), 911/2023
(Condonation of delay)

3. By the present appeal, Appellant seeks setting aside of the impugned judgment and preliminary decree dated 06.02.2021 passed by the Trial Court, whereby the Trial Court has passed a preliminary partition decree in favour of the Plaintiffs in the suit who are Respondents No. 1 and 2 herein, partitioning certain properties, which according to the Appellant are self-acquired properties of parties (even non-parties to the suit). Appellant is one of legal heirs of late Shri Kishan Chand Gupta, who was Defendant No. 1 before the Trial Court. Respondents No. 1 and 2 are also legal heirs of late Shri Kishan Chand Gupta, who instituted the suit for partition and rendition of accounts, being CS No. 3124/1991.

4. Amongst other grounds of challenge, the prime grievance of the Appellant, as put forth by the learned counsel is that the Trial Court fell in error in travelling into a statutorily prohibited jurisdiction to adjudicate upon lands which are covered under the Delhi Land

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Reforms Act, 1954 (DLR Act) Section 185 of the said Act specifically prohibits and excludes the jurisdiction of the Civil Courts from adjudicating upon lands which are covered under the said Act. It is urged that DLR Act is a special statute which operates for specific lands and contains specific provisions under Sections 55 to 59 thereof for partition of agricultural land and that power of partition of such lands is conferred exclusively upon the Revenue Assistant. It is, therefore, contended that being a Bhumidari land, the Trial Court has no jurisdiction to pass the preliminary decree.

5. Issue notice to the Respondents, through all permissible modes, returnable on 01.08.2023, when a similar appeal being RFA 630/2022 is listed before the Court.
6. Till the next date of hearing, operation of impugned judgment and preliminary decree dated 06.02.2021, shall remain stayed.

JYOTI SINGH, J

JANUARY 10, 2023/rk/shivam