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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 2658/2013**

SANTOSH KUMAR ARORA

..... Plaintiff

Through: Mr. Sumit Jidani, Adv.

versus

REETA ARORA & ANR.

..... Defendants

Through: Mr. Ashish Mohan, Mr. Harsh Ahuja
and Mr. Kushal Kumar, Advs. for D-
1.

Mr. Sanjay Kumar Pathak, Mr. Sunil
Kumar Jha and Mr. M.S. Akhtar,
Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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19.07.2019

1. Vide order dated 4th February, 2019, a preliminary decree for partition, declaring the share of the plaintiff and the defendant no.1 to be 50% each in Property No.B-3/4, Rajouri Garden, New Delhi, was passed and opportunity given to the parties to explore the possibility of division by metes and bounds.
2. The counsel for the plaintiff as well as the counsel for the defendant no.1 state that the property is constructed over land *ad measuring* 311.11 sq. yds. and comprise of four floors but is incapable of division by metes and bounds; though they state that the property can be divided vertically but the Master Plan and the Municipal Laws bar division of the plot or carving out two or more residences out of one.
3. Thus the only option is to pass a final decree for partition, of sale of the property and of distribution of sale proceeds in accordance with the

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shares declared in the preliminary decree for partition.

4. Accordingly, a final decree for partition of Property No.B-3/4, Rajouri Garden, New Delhi is passed, of sale thereof and of distribution of sale proceeds as per shares declared in the preliminary decree for partition.

5. However before the property is sold to outsiders, the plaintiff and the defendant no.1 shall be entitled to make *inter se* bids, with the party bidding the highest acquiring share of the other against payment of the entire consideration, execution of requisite documents and delivery of possession of the portion in occupation of such party.

6. It is further clarified that if either of the parties in occupation/possession, on sale of the property or other party bidding the highest, fails to deliver possession of the portion of the property, in his/her occupation, such party shall be liable to be dispossessed therefrom as if in pursuance to a decree for recovery of possession of immovable property.

7. The parties are left to bear their own costs.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

JULY 19, 2019

‘pp’..

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