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

+ **FAO(OS) 8/2023**

+ **FAO(OS) 9/2023**

SHRI KISHAN CHAND DASS AND ORS

.....Appellants

Through: Dr.Arun Mohan, Sr. Adv. with
Mr.Vinayak Marwah & Ms.Rishika Arora, Adv.

versus

**M/S KUONI TRAVEL INDIA PVT LIMITED NOW THOMAS
COOK INDIA LIMITED**

.....Respondent

Through: Mr.Aman Leekha, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

17.02.2025

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1. Learned senior counsel for the appellants submits that despite the appellants having filed a suit seeking possession of the portion of the property which in terms of the final decree of partition on 18.12.2003 falls in their share, the appellants were still entitled to file an application under Order XX Rule 12, Code of the Civil Procedure, 1908 (hereinafter "the CPC") for determination of *pendente lite* mesne profits in the disposed of partition suit itself. His plea being that till the property, which was the subject matter of the suit seeking partition, culminates into full discharge and satisfaction, the *lis* between the contesting parties continue and therefore, the Court which had passed the final decree would not become *functus officio* till the final decree of partition was engrossed.



2. Learned counsel for the respondent, however, seeks to dispute this position and submits that once a fresh suit for possession had already been filed by the appellants, the learned Single Judge was justified in holding that the application under Order XX Rule 12, CPC filed by the appellants, was not maintainable in the suit for partition which stood disposed of way back in December 2003.
3. List on 09.07.2025.

REKHA PALLI, J

SAURABH BANERJEE, J

FEBRUARY 17, 2025

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