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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 470/2021

MAHENDER KUMAR SHARMAPlaintiff

Through: Mr. Sidharth Joshi, Mr. Pankaj Seth
and Mr. Vikrant Ballav Sharan, Advs.

versus

SWATI SHARMADefendant

Through: Mr. Nishant Menon, Mr. Jhum Jhum
Sarkar and Ms. Radhika Malik, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% 25.03.2025

I.A. 15101/2022 (filed on behalf of the plaintiff for delay in refiling)

1. For the reasons stated in the application, the same stands allowed, and the delay of 90 days in refiling the application stands condoned.

2. Application stands disposed of accordingly.

I.A. 15100/2022 (filed on behalf of the plaintiff for passing the judgment on the basis of admission made by the defendant)

1. Learned counsel appearing for the plaintiff refers to the averments made in paragraph Nos.3 and 4 of the plaint, which read as under:

“3. That Late Shri Rajendra Kumar Sharma during his lifetime got married to Late Ms Mridula Sharma and that the defendant was the only issue born out of the said wedlock. That the mother of the defendant namely Late Smt. Mridula Sharma had pre-deceased father of the defendant as she expired on 19.05.2017. Therefore the defendant was left as the sole legal heir of late Shri Rajendra Kumar Sharma. Thus, the defendant becomes the joint owner of the property bearing no. B-203, Lok Vihar, Pitampura, Delhi-34 after their death.



4. *That accordingly the defendant alongwith the plaintiff is owner of one half share each in the property bearing no. B-203, Lok Vihar, Pitampura, Delhi-34”*

2. In the context of the submissions made in paragraph Nos.3 and 6 of parawise reply in the written statement filed by the defendant, if is perused, it would indicate that there is unequivocal admission by the defendant. The relevant paragraphs of the defendant’s written statement read as follows:

“3. The contents of Paras 3 and 4 are correct and admitted. However, the contents of the true facts and preliminary objections submitted above may be read as part and parcel of reply to these paras as well and the same are not being repeated herein for the sake of brevity.

“6. In reply to the contents of para 7 of the plaint the contents or any message is denied however it is admitted that subsequent to the expiry of the father of the defendant, the defendant is the equal owner in the subject premises. The contents of the true facts and preliminary objections submitted above may be read as part and parcel of reply to these paras as well and the same are not being repeated herein for the sake of brevity.”

3. In view of the aforesaid factual position, it is amply clear that the defendant unequivocally admits the claim of partition raised by the plaintiff. Therefore, the provisions of Order XII Rule 6 of the CPC are attracted, and the plaintiff's suit deserves to be decreed.

4. Moreover, the legal position concerning Order XII Rule 6 of the CPC has been clearly delineated through various decisions of the Supreme Court. In the case of ***Uttam Singh Duggal & Co. Ltd. v. Union of India***¹, the Supreme Court clarified the object and scope of Order XII Rule 6, emphasizing that the provision was designed to facilitate a speedy judgment for the plaintiff where the defendant has admitted to the claim. The Supreme Court, in this case, reiterated that the object of the rule is to allow a



judgment to be passed based on the defendant's admission, which should be clear, unequivocal, and unambiguous. The Supreme Court further stated that the provision should not be unduly restricted and must be applied when there is a plain admission, entitling the plaintiff to succeed. Similarly, in ***Himani Alloys Ltd. v. Tata Steel Ltd.***², the Supreme Court reinforced the need for the Court to determine whether the admission of facts is clear and unambiguous before proceeding with judgment. The Supreme Court emphasized that when mixed questions of fact and law arise, these must be resolved through the presentation and evaluation of evidence.

5. Accordingly, a preliminary decree of partition is granted.
6. The plaintiff and the defendant are entitled for ½ share in the property bearing No. B-203, Lok Vihar, Pitampura, Delhi-110034.
7. Considering the circumstances, the Court finds it appropriate to refer the matter to the Delhi High Court Mediation and Conciliation Centre to explore the possibility of an amicable settlement. If mediation is successful, the Court shall consider appointing a Local Commissioner for the sale of the property.
8. In the meantime, the parties are restrained from creating any third-party rights in the property.
9. The earlier interim orders are made absolute.
10. Application stands disposed of.

I.A. 4552/2024 (filed on behalf of the defendant for recalling and setting aside the order dated 01.12.2023.)

I.A. 34439/2024 (filed on behalf of plaintiff for issuance of contempt against the defendant and punish the defendant/contemner)

¹ (2000) 7 SCC 120



11. In view of the aforesaid, the aforesaid applications have rendered infructuous. The same are accordingly disposed of.

CS(OS) 470/2021, I.A. 36870/2024 & I.A. 44488/2024

12. In view of the background of the case, a Senior Mediator is appointed.

13. List before the Delhi High Court Mediation and Conciliation Centre on 22.04.2025.

14. List before the Court on 26.08.2025.

MARCH 25, 2025/p/sph

PURUSHAINDRA KUMAR KAURAV, J

Click here to check corrigendum, if any

² (2011) 15 SCC 273