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

+ CS(OS) 500/2021

GAYATRI VARMA & Anr.

.....Plaintiffs

Through: Mr. Vikrant Nilesh Goyal, Mr. Yash Basoya, Mr. Rakshit Tyagi and Mr. Kunal Dixit, Advs. for P-1.

Mr. Kuljeet Rawal and Mr. Aditya Joshi, Advs. for P-2.

versus

SUNITA MADHOK & ORS.

.....Defendants

Through: Ms. Anjana Pandey, Mr. Kuldeep Singh and Mr. Shubham Singh, Advs. for D-1.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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26.02.2026

I.A. 28718/2025 (under Order XII Rule 6 read with Section 151 CPC by P-2)

1. The present suit was filed by the plaintiff (Gayatri Varma) *inter alia* praying for decree of partition *qua* the suit property bearing no. C-76, South Extension Part-II, New Delhi (hereinafter referred to as 'suit property').
2. The plaintiff no.2, who is the real brother of plaintiff was earlier arrayed as defendant no.3, however, subsequently he was transposed as plaintiff no.2 *vide* order dated 20.09.2023.
3. It is stated in the plaint that the suit property was acquired by Sh. Shanti Swaroop Madhok, who died intestate on 12.01.1997 leaving behind following legal heirs, who acquired 50% share each in the said property:



(i) Sh. Jagdish Kumar Madhok (Son) and

(ii) Smt. Veena Sood (daughter)

4. The plaintiff nos.1 and 2 are the daughter and son, respectively, of Smt. Veena Sood, whereas defendant nos.1 and 2 are widow and daughter, respectively, of Sh. Jagdish Kumar Madhok.

5. It is stated that Jagdish Kumar Madhok died intestate while Smt. Veena Sood had executed a Will dated 12.05.2015 in terms whereof, she had bequeathed her share in the suit property equally to both the plaintiffs.

6. Mr. Kuljeet Rawal, learned counsel appearing on behalf of plaintiff no.2 submits that defendant no.2 was served but she did not choose to appear and her right to file written statement was closed *vide* order dated 13.04.2023.

7. Insofar as defendant no.1 is concerned, she is the widow of late Jagdish Kumar Madhok and her defence was also struck off by the Court *vide* order dated 30.04.2025. He, thus, submits that there is no written statement on record.

8. He further submits that as per the averments made in the plaint, each party has 1/4th share in the suit property.

9. In this backdrop, a prayer is made to pass a preliminary decree.

10. Since there is no written statement on record, the averments in the plaint have remained uncontroverted. Therefore, there is no use of putting the suit to trial and recording evidence. Hence a preliminary decree is passed, declaring that the parties shall have 1/4th share each in the suit property.

11. A preliminary decree be prepared in the above terms.

12. The parties are directed to maintain *status quo* during pendency of the



suit.

13. At this stage, Mr. Vikrant Nilesh Goyal, learned counsel for plaintiff no.1 and Mr. Rawal, learned counsel for plaintiff no.2 urges the Court that a Local Commissioner may be appointed to visit the property and to ascertain as to whether the suit property can be divided by metes and bounds.

14. Mr. Arun Satija, Advocate [Mob: 9810132467]; [Email ID: advocate_arunsatija@yahoo.co.in] is appointed as Local Commissioner to visit the aforesaid property and interact with the parties and suggest whether the suit property can be partitioned by metes and bounds amongst the parties to the suit, having regard to their respective shares.

15. The Local Commissioner will visit the aforesaid property after giving due notice to the counsel for the parties. The parties and/or their respective counsels may remain present at the time of execution of commission.

16. The Local Commissioner shall be at liberty to engage the services of an Architect for the purpose of deciding whether the property can be partitioned by metes and bounds. The fee of the Architect, as well as, other incidental and out of pocket expenses shall be borne by all the parties in proportion to their share in the suit property.

17. All the parties shall extend support and cooperation to the Local Commissioner and give him access to portions of the suit property in their respective possession to enable him to carry out inspection, and provide all necessary documents/site plan etc. as requested by the Local Commissioner.

18. In case, exact division of suit property by metes and bounds is not possible as per the respective shares of the parties, the Local Commissioner will suggest other ways and means to offset any extra area/portion for and against any of the parties, if possible.



19. The fee of the Local Commissioner is fixed initially at Rs. 3 Lakhs to be shared by the plaintiff and defendants proportionate to their shares in the suit property. The out-of-pocket expenses for preparing site plan etc. shall also be borne by the parties jointly. The Local Commissioner shall be paid his fee in advance.

20. Mr. Rawal further submits that since the defendant no.2 is residing abroad and there is no representation on her behalf, the share of the Local Commissioner fee to be borne by the defendant no.2 shall also be borne by the plaintiffs jointly. Ordered accordingly.

21. The Local Commissioner shall file report within eight weeks. The copy of the report shall also be furnished to the counsels for the parties, who shall then be at liberty to file their objections thereto, if any, before the next date of hearing.

22. The application stands disposed of.

CS(OS) 500/2021 & I.A. 13539/2021 (under Order XXXIX Rules 1 & 2 CPC)

23. Re-notify on 21.05.2026.

VIKAS MAHAJAN, J

FEBRUARY 26, 2026

N.S. ASWAL