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

+ **CS(OS) 509/2023 I.A. 30803/2024**

JASWANT SINGH GOHEL

.....Plaintiff

Through: Mr. Nimish Chib, Mr. Parth
Bhardwaj, Advocates.

versus

HARKISHAN SINGH GOHEL & ORS.

.....Defendant

Through: Mr. Piyush Arora, Mr. Amit
Srivastava, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

20.02.2025

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1. The plaintiff and all three defendants are present in the Court pursuant to the previous order dated 11th November 2024. They state that they have no objection, if the said property bearing number 6/89-90, *Malviya Nagar, New Delhi 110017* (**'suit property'**) is partitioned, giving 1/4th share to each of the parties.
2. It is an admitted position that all the four parties mentioned are the legal heirs of *late Sh. Mengha Singh and late Smt. Balwant Kaur*.
3. It is also an admitted position that a settlement dated 2nd March 2022, was arrived at between the parties which was duly registered.
4. Accordingly, a preliminary decree is passed, declaring that each of plaintiff, defendant nos. 1,2, and 3 will have 1/4th share in the suit property mentioned above.



5. As regards the partition of the said property, it is stated that the defendant no.1 is in self-occupation of the *ground floor*. Defendant no.2 is in the occupation of the *first floor* and the *second floor* is in the occupation of defendant no.3.

6. Issue arises relating to the plaintiff's possession of one part of the property. As per the settlement, which was arrived at between the parties, in particular *clause 4*, the said was agreed as under in the said settlement, extracted as under:

4. That the Forth Party (**JASWANT SINGH GOHEL**) shall be exclusive and absolute owner of the **ENTIRE THIRD FLOOR of the Freehold Property bearing No.6/89-90, measuring 144 Sq.yds., situated at MALVIYA NAGAR, NEW DELHI-110017** with structure standing therein, fittings and fixtures installed therein, with all rights, titles & interests therein, alongwith proportionate, undivided, indivisible and impartible share of ownership rights in the land underneath, with immediate effect.

7. In order to balance the equities between the parties, the Court had suggested, on 16th July 2024, as under:

5. As an interim measure, it has been suggested to the counsel for the plaintiff that the plaintiff should apply for a sanctioned plan for construction of the third floor, which application for sanction will be jointly signed by defendant nos. 1 to 3. Upon receipt of sanction, the plaintiff will construct the third floor at his own costs reserving his right to claim a *pro rata* contribution from defendant nos. 1 to 3 towards costs of construction which claim will thereafter be decided in the suit. Appropriate direction can be issued in terms thereof.

6. Learned counsel for the plaintiff and defendants seek time to take instructions on the aforesaid suggestion.

8. However, even though the share of the parties has been decided but the mediation, thereafter, directed by the parties on 16th July 2024, failed



since the defendants are unwilling to share the cost of construction.

9. However, counsel for defendant no.2 states that they will have no problem if any of the other parties are willing to buy the share of the property.

10. At this stage, defendant no.1 and 3 state that they're not willing to sell their share of the property. The offer of defendant no. 2 shall be considered by the plaintiff which would possibly result in a resolution of this issue.

11. Parties shall try and resolve the possibilities of the partition of the property through a Mediator.

12. Accordingly, the parties shall appear before a Senior Mediator in Delhi High Court Mediation & Conciliation Centre, on 25th February 2025 at 3:00 P.M.

13. Copy of order be sent to the Mediator through the Organizing Secretary, Delhi High Court Mediation & Conciliation Centre.

14. In the meantime, as and when parties achieve any settlement, parties are at liberty to move an appropriate application.

15. List on 10th July, 2025.

16. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 20, 2025/RK/bp