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

+ CS(OS) 433/2020

RAKESH KUMAR SAXENA

.....Plaintiff

Through: Ms. Preeti Singh, Mr. Sanklan Porwal, Ms. Anuradha Anand, Ms. Anoushka Bajpai, Ms. Sakshi Trivedi, Ms. Kirti Dahiya and Mr. Akshay Chhabra, Adv.

versus

DR. ASHOK SAXENA & ORS.

.....Defendants

Through: Mr. Rajeev Saxena, Sr. Adv. with Ms. Megha Saxena and Ms. Shreya Bhatnagar, Adv. for D-1.
Mr. Saurabh Dev Karan Singh, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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26.02.2026

I.A. 5447/2026 (under Order XXVI Rules 13 & 14 read with Section 151 CPC for appointment of Local Commissioner)

1. Ms. Preeti Singh, learned counsel appearing on behalf of plaintiff submits that preliminary decree has already been passed by this Court *vide* order dated 02.09.2025 declaring the following shares of the parties in respect of the suit property being 23/1, Roshnara Extension Scheme, Shakti Nagar, Delhi-110007 admeasuring 824.44 sq. yards:

(i) Plaintiff - 50% share;

(ii) Defendant no.1 - 37.5% share;



(iii) Defendant no.2A - 12.5% share.

2. It is submitted that the order dated 02.09.2025 incorrectly records the area of the property as 1648.88 sq. yards whereas the correct area of the property is 824.44 sq. yards, which position is also affirmed by the learned counsels appearing on behalf of defendants.
3. Since the preliminary decree has already been passed, the present application is allowed.
4. Mr. Anurag Ojha, Advocate (D/2191/13) [Mob.: 8860069704]; [Email ID: anuragdulaw@gmail.com] 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.
5. The Local Commissioner will visit the aforesaid property after giving due notice to the learned counsel for the parties. The parties and/or their respective counsels may remain present at the time of execution of commission.
6. 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.
7. 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.
8. 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.

9. The fee of the Local Commissioner is initially fixed at Rs. 3 Lakhs to be shared by the plaintiff and defendants proportionate to their shares in the suit property as per the preliminary decree. 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.

10. The commission be executed within a period of four weeks. The Local Commissioner shall file report within three weeks thereafter. 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.

11. The application stands disposed of.

CS(OS) 433/2020 & I.A. 12287/2020 (order XXXIX Rules 1 & 2 read with Section 151 CPC)

12. List before Court for the consideration of report of Local Commissioner or objections, if any, on 20.05.2026.

VIKAS MAHAJAN, J

FEBRUARY 26, 2026

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