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

+ **CS(OS) 51/2022, I.A. 1605/2022 & 21074/2022**

CHITRA KHURANA & ANR.

..... Plaintiffs

Through: Ms. Nina R. Nariman with Ms.
Geetika Kapur, Advs.

versus

VEERESH MALIK

..... Defendant

Through: Mr. Pulkit Deora with Ms. Vaishnavi
Varshney, Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **04.01.2024**

1. This hearing has been done through hybrid mode.
2. Vide order dated 19th October, 2023, a decree of partition has been passed declaring that all the three parties i.e., the two Plaintiffs and the Defendant are entitled to 1/3rd share in the estate of late Lt. Col. (Retd.) L. L. Malik and Mrs. Leela Malik as also in the assets of the late Lt. Col. (Retd.) L. L. Malik Hindu United Family (*hereinafter*, 'HUF') which now stands dissolved. The relevant portion of the order is set out below:

“3. In the light of the aforesaid stand taken by the parties and having perused the conveyance deed in respect of property bearing no. D-6L Defence Colony, New Delhi executed in the name of late Lt. Col. (Retd.) L. L. Malik, I am of the view that a decree of partition declaring that all the three parties i.e. the two plaintiffs and defendant are entitled to 1/3rd share each in the estate of late Lt. Col. (Retd.) L.L.Malik and Mrs. Leela Malik and also in the assets owned by Lt. Col. (Retd.) L.L.Malik, HUF. which stands now dissolved, is required to be passed.



4. Accordingly, a preliminary decree of partition declaring the two plaintiffs and the defendant as 1/3rd owner of the estate left behind by late Lt. Col. (Retd.) L.L.Malik and late Ms. Leela Malik as also in the Lt. Col. (Retd.) L.L.Malik, HUF, is passed.”

3. Pursuant thereto, both parties submit that there are some movable assets as also one immovable property i.e., D-61, Defence Colony, New Delhi.

4. On behalf of the Plaintiff- Ms. Nina Nariman, Id. Counsel submits that the Plaintiff has received two offers for the said immovable property i.e., Rs.33 crores and Rs. 35 crores. She further submits that the Defendant is free to suggest any other buyer who may be offering a higher amount.

5. On behalf of the Defendant- Mr. Deora, Id. Counsel submits that the Defendant is not in a position to identify any buyer but he prays for a Local Commissioner to be appointed who can conduct an auction.

6. Considering the nature of the matter, this Court is of the opinion that the division of the movable assets and the sale of the immovable property ought to be effected through a Local Commissioner who can ensure that all the formalities are completed in accordance with law and the division is also done in terms of the preliminary decree.

7. Accordingly, **Mr. Sanjiv Kakra, Advocate, D/393-F/1978 (+91 9810295666)** is appointed as the Local Commissioner. The mandate of the Local Commissioner is as under:

- i. The Local Commissioner shall ascertain the general market price of similar properties in the Defence Colony areas and shall also verify the offers which have been placed on record by the Plaintiff. The Local Commissioner is also free to make



enquiries if any better offers may be available for this property. After verifying the credentials of the proposed purchaser at the best possible price, the Local Commissioner shall proceed ahead with the sale of property bearing no. D-61, Defence Colony, New Delhi, with consent of both the parties. All documents shall be executed jointly and the sale shall be registered with the concerned sub-Registrar. Since some of the parties are residing abroad or may be unable to travel, if they wish to give a power of attorney to the Local Commissioner for executing of the sale documents, they may do so.

- ii. The Court has been informed that the property is standing in the name of the late father of the parties with the Land and Development Office (*hereinafter, 'L&DO'*). Accordingly, the Local Commissioner, if so required, may also approach the L&DO in order to get permission in terms of the preliminary decree passed by this Court so as to ensure that the L&DO gives its permission for the sale of this property. Upon permission being sought, the L&DO shall issue the permission on an urgent basis.
- iii. The sale consideration which is received shall be deposited with the Registrar General of this Court. Upon the final/appropriate order being passed, directions for transmission of the consideration amount to the respective parties shall be passed.
- iv. Insofar as the movable assets are concerned, the Local Commissioner shall interact with the parties either physically or through online platform, and with their consent effect the



division of the movable properties 1/3rd each in accordance with preliminary decree.

8. Let the Local Commissioner place a report before this Court within the next three months after giving effect to the above order so that the final decree of partition can be passed.

9. The fee of the Local Commissioner is initially fixed at Rs.3 lakhs, excluding out of pocket expenses, which shall be borne by the parties. An amount of Rs.1 lakh shall initially be paid to the Local Commissioner, by the Plaintiffs and thereafter the reimbursements/adjustments shall be made from the sale consideration which is to be deposited with the Registrar General.

10. List on 16th April, 2024 for receiving the Local Commissioner's report. If there are any impediments, the Id. Local Commissioner or either of the parties are free to mention the matter before the Court.

PRATHIBA M. SINGH, J.

JANURARY 04, 2024

dj/bh