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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS (OS) 726/2014

GYAN PRAKASH GUPTA

..... Plaintiff

Through: Mr. Pawan Sharma, Advocate.
(M:9818156973)

versus

VIJAY PRAKASH & ORS.

..... Defendants

Through: Ms. Archana Gupta, Advocate for D-
2 to 11. (M:8700683588)
Mr. Jai Sahai Endlaw, Mr. Shivansh
Soni and Mr. Shashank Khurana,
Advocates for D-18. (M:9811122114)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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05.09.2018

1. Learned counsel for the Defendant No.18 submits that on the last date, it was by an inadvertent error that the submission was made that only Rs.50 Lakhs have been paid out of the total sale consideration of Rs.5.5 crores as per the agreement to sell dated 8th July, 2014. Mr. Endlaw, learned counsel for Defendant No.18 submits that out of Rs.5.5 crores, Rs.2 crores has already been paid to Defendant No.1. However, the Defendant No.18 is still not in possession of the property. Since his client is not getting possession of the property, he is unwilling to pay any further amount into the Court.
2. Accordingly, the following issues are being framed in the suit.
 - 1) Whether the Plaintiff enjoys any share in the suit property bearing no.A-35, Kailash Colony, New Delhi. If so, what are the shares of the various legal heirs of Shri Magha Nand.? OPP
 - 2) Whether the Plaintiff is entitled to partition of the suit property? OPP



- 3) Whether the Defendant No.1 was entitled to 60% or 3/5th share in the land underneath the suit property and proportionate share in the building thereon? OPD18
- 4) Whether the Defendant No.18 has validly purchased 60% or 3/5th share of the suit property from the Defendant No.1 and is the beneficial owner having right, title and interest therein? OPD18
- 5) Whether the suit property was partitioned between Shri Magha Nand and Shri Vijay Prakash in terms of partition deed dated 10th March, 2000? OPD18
- 6) Whether Shri Magha Nand left behind a validly executed Will dated 25th September, 2000? OPD18
- 7) Relief.

3. No other issues are raised or pressed for. Both the parties to file list of witnesses within four weeks. Let the affidavits by way of evidence be filed within eight weeks.

4. With the consent of the parties, Local Commissioner is appointed to record the evidence in the matter. **Ms. Bimla Maken (Retd. ADJ) (M:9910384624)** is appointed as the Local Commissioner. The fee of the Local Commissioner will be shared equally by the Plaintiff and Defendant No.18. The total fee of the Local Commissioner is fixed at Rs.2 Lakhs, at this stage. The payment of Rs.50,000/- each shall be made by both parties on the first day of recordal of evidence. Upon the conclusion of the Plaintiff's evidence and commencing the Defendants' evidence, the remaining amount of Rs.1 Lakh shall be paid by both.

5. Parties to appear before the Local Commissioner on 19th November, 2018. The Local Commissioner shall endeavour to conclude the evidence



within six months as per Delhi High Court (Original Side) Rules, 2018. The Local Commissioner shall maintain proceeding sheets strictly as per the Delhi High Court (Original Side) Rules, 2018.

PRATHIBA M. SINGH, J.

SEPTEMBER 05, 2018/dk