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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 124/2017, I.A. 3240/2017 and I.A. 3193/2019**
SHRI. RAKESH CHAND GUPTA & ORS. Plaintiffs

Through: Mr. Abhimanyu Walia, Advocate (M: 8800991188).
Mr. Mohit Gupta, advocate for Mr. Nimish Gupta and Mr. Vishal Saxena, Advocates for CS(OS) 621/2017 (M: 9999742355).

versus

NARESH CHAND GUPTA Defendant
Through: Mr. Ankit Jain, Advocate with Mr. Sarvesh Rai, Advocate (M: 9810737362).

CORAM:
JUSTICE PRATHIBA M. SINGH
ORDER
% 15.03.2019

I.A 3626/2019 (Under order VIII Rule 1-A read with Section 151 CPC)

1. By this application, the Defendant seeks to place on record some additional documents. Let the reply be filed within two weeks. Rejoinder, if any, be filed within two weeks thereafter.

2. List on 3rd May, 2019.

I.A. 3192/2019 (Under Order XIV rule 5 CPC)

3. Both counsels agree that issue No. iii) does not arise in as much as the case of both parties is that Will of Late Shri Ram Chand Gupta dated 20th July, 2010 is forged and fabricated. Thus, issue No. iii) is deleted. It is further submitted by Mr. Jain that issue no. vi) requires to be reworded as Shri Rakesh Chand Gupta and Shri Nimish Gupta are in possession of two

CS(OS) 124/2017

Page 1 of 3



vertical halves of the property by virtue of Will dated 14th November, 1983 of Smt. Samar Gupta. Accordingly, issue No. vi) shall read as under:-

“vi. Whether the Plaintiff No.1 and the Defendant are owners and in exclusive separate possession of two vertical units in the property bearing No. F-31, Hauz Khas, New Delhi by virtue of the Registered Will dated 14.11.1983 of Smt. Samar Gupta, and therefore requires no partition?”

4. I.A. is disposed of.

I.A. 3191/2019 (Under Order VII Rule 11 CPC)

5. The Defendant has raised an issue of deficient court fee. An issue in this regard is framed as under:-

xiv) Whether the plaint has been properly valued and proper court fee has been paid in accordance with the Court Fees Act, 1870?

The erstwhile issue xiv) on Relief shall now stand numbered as issue xv).

6. Recording the undertaking on behalf of the Plaintiff - Rakesh Chand Gupta and Ors., that if this court decides that further court fee is required to be paid, the same shall be paid as per the directions of this Court, the I.A. is disposed of.

CS(OS) 124/2017, I.A. 3240/2017 and I.A. 3193/2019

7. Parties submit that there are several witnesses from both sides. Ld. Counsels for the parties submit that common evidence is being led in the present suit and in CS (OS) 621/2017. Ms. Anita Sahani (M:- 9810113256), Advocate is appointed as a Local Commissioner to record the evidence of the parties in CS (OS) 124/2017 and CS (OS) 621/2017. The fee of the Local Commissioner is fixed at a lump sum of Rs. 5 lakhs - Rs.2.5 lakh to be



paid by each side. Rs. 1 lakh shall be paid at the commencement of the evidence of the Plaintiffs - Shri Rakesh Chand Gupta and Ors. and Rs.1.5 lakh shall be paid upon the conclusion of Plaintiffs' evidence. Similarly, the Defendant Shri Naresh Chand Gupta shall pay Rs.1 lakh and Rs. 1.5 lakhs at the commencement and conclusion of his evidence respectively.

8. List before the Local Commissioner on 13th May, 2019. List before Court for hearing in the applications on 3rd May, 2019.

PRATHIBA M. SINGH, J.

MARCH 15, 2019

MR