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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS (OS) 124/2017**

SHRI. RAKESH CHAND GUPTA & ORS. Plaintiffs
Through: Mr. Samrat Nigam, Advocate.
(M:9810424476)

versus

NARESH CHAND GUPTA Defendant
Through: Mr. Ankit Jain, Mr. Sarvesh Rai and
Mr. Siddhartha, Advocates.
(M:9810737362)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **03.05.2019**

I.A. 3193/2019 (appointment of local commissioner)

1. In view of the order passed on 15th March, 2019, the present application does not survive and the same is disposed of.

I.A. 3626/2019 (u/O 8 Rule 1-A CPC)

2. The present application is for taking additional documents on record on behalf of the Defendant. Mr. Ankit Jain, ld. counsel for the Defendant submits that all these documents relate to the suit property and his client would not be seeking amendment in the pleadings in order to include these documents. There is no explanation as to why these documents are being filed so belatedly, especially after the Plaintiffs have filed their affidavit in evidence. However, since the documents relate to the suit properties and are relevant for adjudication of the disputes, the same are taken on record subject to payment of Rs.25,000/- as costs to be paid to the Plaintiffs. No amendment would be permitted in the pleadings in view of these documents.

3. I.A. is disposed of.



I.A. 3240/2017 (u/O XXXIX Rules 1 & 2 CPC)

4. This is a suit for partition. The Defendant relies upon the registered Will of the father. The said Will has been set up in defence of the present suit. It is the case of the Defendant that the Will has been acted upon and hence no *status quo* order deserves to be passed.

5. On a specific query to the Defendant, who is present in Court, it is submitted by Ld. Counsel that though the Defendant has no intention to sell the suit properties, the Defendant is fully within his rights to sell it, and if he wishes to sell the same, he should be allowed to do so.

6. The present suit is for partition and though the Will is registered, the same would be required to be proved in accordance with law. The Plaintiffs are brothers of the Defendant and both parties are in possession of the various properties. Thus, it is directed that *status quo* in respect of title and possession shall be maintained by all the parties. If the Defendant wishes to sell or change the *status quo*, liberty is granted to the Defendant to approach the Court at that stage. I.A. is disposed of in the above terms.

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7. Parties also wish to explore amicable resolution. Accordingly, list the matter before the Delhi High Court Mediation and Conciliation Centre on 23rd May, 2019 at 4:00 pm. Let a Senior Mediator be appointed. Proceedings in the suits shall continue irrespective of the mediation proceedings. The Local Commissioner has been appointed for recording the evidence.

8. List before the Court on 24th September, 2019.

PRATHIBA M. SINGH, J.

MAY 03, 2019/dk