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

+ RFA 1056/2025, CM APPL. 72601/2025, CM APPL. 72602/2025

RAJ KUMAR & ANR.

.....Appellants

Through: Mr. Deepak Aggarwal, Mr. Akash Gupta, Mr. H. Hussain and Mr. Sumit Aggarwal, Advocates.

versus

KUSUM LATA & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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19.11.2025

CM APPL. 72603/2025 (exemption)

Exemption allowed, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

RFA 1056/2025, CM APPL. 72601/2025 (stay), CM APPL. 72602/2025 (for leading witnesses of the Wills and taking on record the additional documents)

By way of the present appeal filed under section 96 of the Code of Civil Procedure 1908, the appellants impugn judgment and decree dated 26.08.2025 passed by the learned District Judge - 01, North-East District, Karkardooma District Courts, Delhi in suit bearing CS No.271/2018.



2. Mr. Deepak Aggarwal, learned counsel appearing for the appellants submits, that pursuant to the impugned Preliminary Decree dated 26.08.2025, *vide* order dated 16.10.2025, the learned trial court has also directed that a final decree of partition be drawn-up, with a direction that the suit property to be put to auction and sale proceeds be divided amongst the parties in terms of the preliminary decree of partition.
3. Learned counsel submits, that as recorded in order dated 16.10.2025, the suit property admeasures only about 50 sq. yards, with 5 co-sharers, 04 of whom would get 11 sq. yards each and 01 of whom would get 06 sq. yards.
4. Mr. Aggarwal submits however, that the on-ground reality is, that it is only the two appellants and respondent No.1, who are residing in the suit property; and respondents Nos.2 and 3 are residing separately, both of whom were proceeded *ex-parte*.
5. Learned counsel submits, that the appellants would be ousted both from their home as well as their place of work, since they run shops on the ground floor of the suit property.
6. Mr. Aggarwal further points-out, that the learned trial court did not afford sufficient opportunity to the parties to work-out an arrangement, whereby the appellants could purchase the shares of the other co-sharers.
7. Issue notice.
8. Upon the appellant taking steps, let notice be sent to the respondent by all permissible modes, returnable for the next date.



9. Let the notice indicate that replies to CM APPL. No.72601/2025 and CM APPL. No.72602/2025 be filed within 06 weeks of service; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copy to the opposing counsel.
10. No reply is required in the appeal.
11. Let trial court record be requisitioned in electronic form; and copy of TCR be supplied to counsel on request.
12. Re-notify on 02nd February 2026 before the learned Joint-Registrar for completion of service; and for completion of pleadings in CM APPL. No.72601/2025 and CM APPL. No.72602/2025.
13. List before court thereafter.
14. On a *prima-facie* view of the matter, and considering the submissions made, it is directed that no further proceedings towards auction of the suit property would be taken, till the next date of hearing before this court.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 19, 2025/ak