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

+ CS(OS) 224/2016

CHITRA KAPOOR

..... Plaintiff

Through: Ms. Mrinalini Sen and Mr.
Shantanu Lakhota, Advocates
(Mobile No. 9873367274).

versus

SH SAMIR MAJUMDAR & ORS

..... Defendant

Through: Mr. S.K. Bhaduri and Mr. Sumit
Kumar, Advocates for D-1.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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10.03.2023

I.A. 3321/2023 (for necessary direction)

1. This suit was originally filed by Ms. Anita Roy, D/O late Shri B.B. Majumdar and Smt. Bhulurani Majumdar [defendant No. 5 herein] against her mother and her siblings for partition of the suit property. By an order dated 11.03.2019, Ms. Anita Roy was permitted to withdraw the suit and Ms. Chitra Kapoor, who was originally defendant No. 4, was transposed as the plaintiff. That order has been carried in appeal before the Division Bench by defendant Nos. 1 and 5 herein [FAO (OS) 122/2019 and FAO (OS) 97/2019 respectively].
2. By an order dated 03.05.2019, the Division Bench issued notice in FAO (OS) 97/2019 and stayed the operation of the order of this Court.
3. It is contended by Ms. Mrinalini Sen, learned counsel for the



plaintiff, that defendant No.1-applicant has sought the relief sought in prayer (i) of this application in FAO (OS) 122/2019 also. Mr. S.K. Bhaduri, learned counsel for defendant No.1, categorically stated that no such relief had been sought before the Division Bench, but while the order is being dictated, he states that he requires time to check.

4. This appears to be an entirely unsatisfactory state of affairs where a categorical statement is made to the Court and then altered when the order is being dictated. Mr. Bhaduri is directed to place on record the paper book in FAO (OS) 122/2019.

5. It is made clear that if any of the reliefs sought in this application has also been sought in the proceedings before the Division Bench without disclosing it to this Court, the application will be liable to be dismissed with exemplary costs.

6. List on 07.07.2023.

PRATEEK JALAN, J

MARCH 10, 2023

‘vp’/