



\$~29

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CS(OS) 296/2016

ASHOK BAURY

..... Plaintiff

Through: Mr. Gaurav Sarin, Mr. Ajay Baury &
Mr. Abhishek Manchanda, Advs.

Versus

RAJ BAURY & ORS

..... Defendants

Through: Mr. Pramod Kumar Dubey, Ms.
Namita Wali & Mr. Saurabh Kumar,
Advs. for D-2 to 6.

Mr. Salman Khurshid, Sr. Adv. with
Ms. Alisha Panda & Ms. Azra
Rehman, Advs.

Mr. P.D. Gupta, Sr. Adv. with Mr.
Atul Gupta, Adv. for Mr. Arun Sood.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

23.01.2018

OA No.11/2018 (of the plaintiff against the order dated 3rd January, 2018)

1. The plaintiff, in this suit for partition of property bearing No.28, Bungalow Road, Kamla Nagar, Delhi, has preferred this Chamber Appeal against the order dated 3rd January, 2018 of the Joint Registrar allowing IA No.11580/2017 of one Mr. Arun Sood for impleadment in the suit.
2. According to the plaintiff, the aforesaid property belonged to one Bhagwati Devi, being the grandmother of the plaintiff and the defendants and under the Will of the said Bhagwati Devi, was bequeathed to the plaintiff and the defendants.
3. The applicant Mr. Arun Sood claims to be the son of the daughter of Bhagwati Devi.



4. I have enquired from the counsel for the plaintiff / appellant, whether the Will of Bhagwati Devi has been proved in any proceeding.
5. The answer is in the negative.
6. Once the document claimed to be the Will has not been proved in any proceedings, the applicant, who in the absence of a Will would be a Class-I heir of Bhagwati Devi, would in my opinion be a necessary and proper party to a suit for partition of the property and no error is thus *prima facie* found in the impugned order.
7. At this stage, the senior counsel for the defendants states that the stand of the defendants is the same as that of the plaintiff and the defendants have also preferred a Chamber Appeal against the same order though the same has not been listed. He states that both the Chamber Appeals be taken up on the same date.
8. List as and when the Chamber Appeal preferred by the defendants is listed before this Court.
9. The senior counsel for the newly added defendant Mr. Arun Sood appearing on advance notice states that no copy of the paper books have been supplied.
10. The counsel for the plaintiff and the counsel for the defendants to supply the same in the course of the day.

RAJIV SAHAI ENDLAW, J

JANUARY 23, 2018

‘gsr’..