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

+ **CS(OS) 296/2016, I.A. 21824/2022**

ASHOK BAURY

..... Plaintiff

Through: Mr. Gauhar Mirza and Ms. Hiral
Gupta, Advocates.

versus

MR RAJ BAURY & ORS

..... Defendants

Through: Mr. Tanmaya Mehta, Mr. Atul Gupta,
Mr. Saurabh Gupta and Mr. Puneet
Yadav, Advocates for D7.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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25.01.2024

I.A. 13815/2022 (seeking withdrawal of the suit)

1. The present application under Order 23 Rule 1 CPC has been filed on behalf of the plaintiff seeking withdrawal of the suit, by the learned counsel for the plaintiff, on their instructions.
2. The application is permitted to be withdrawn and the plaintiff shall now be continuing with the suit.
3. The application is disposed of.

I.A. 15474/2022 (seeking transposition in place of the plaintiff)

4. The present application under Order XXIII Rule 1A and Order 1 Rule 10 read with Section 151 CPC, has been filed on behalf of the defendant No. 7 for transposition, in view of the permission sought by the plaintiff to withdraw the suit, has now become infructuous and is accordingly disposed



of.

CS(OS) 296/2016

5. On the basis of the pleadings, the following issues are framed:-
 - (i) Whether the suit property bearing Plot No. 28, Bungalow Road, Kamla Nagar, Delhi-110007, as mentioned in the plaint, are subject to the partition *inter se* the parties? If yes, to what share or the parties entitled? OPP
 - (ii) Whether the parties are entitled to a preliminary decree of partition?
 - (iii) Whether the parties are entitled to a final decree of partition?
 - (iv) Whether Smt. Bhagwanti Devil wife of Late Sh. Mathura Das Baury, was the owner of the suit property? OPD
 - (v) Whether the defendant No. 7 is liable to pay the court fees?
 - (vi) Whether the claim of defendant No. 7 to seek a share in the suit property is barred by limitation? OPP
 - (vii) Relief.
6. No other issue arises or is pressed.
7. The parties to file list of witnesses within 15 days. The plaintiff to file an affidavit by way of examination-in-chief within four weeks.
8. Since the defendant No. 7 is out of possession and is claiming 50% share in the suit property, the defendant No. 7 is liable to pay the requisite court fees in claiming the relief of partition.
9. **Submissions heard.**
10. No specific issue on this aspect is required to be framed, at this stage.
11. Learned counsel for the defendant No. 7 has taken an objection to the framing of issue of limitation, however, issues have already been framed and



shall be decided at the time of final decision.

12. Be listed before the learned Joint Registrar for PE on 07.03.2024.

NEENA BANSAL KRISHNA, J

JANUARY 25, 2024/RS