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

+ **CS(OS) 296/2016**

ASHOK BAURY

..... Plaintiff

Through: Mr. Devinder Singh, Sr. Advocate
with Mr. Gauhar Mirza, Ms. Hiral
Gupta and Ms. Nikita More,
Advocates

versus

MR RAJ BAURY & ORS

..... Defendants

Through: Mr. Tanmaya Mehta and Mr. Sourabh
Gupta, Advocates for D-7

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **03.04.2024**

I.A.7475/2024(under Section 151 CPC read with Section 152 CPC)

1. The present application has been filed on behalf of the plaintiff under Section 151 CPC read with Section 152 CPC for clarification of the Order dated 25.01.2024 in terms of the Order of the Division Bench dated 19.03.2024.

2. In view of the liberty granted by the Division Bench *vide* Order dated 19.03.2024 granted in FAO(OS) 34/2024 has sought the clarification of the Order dated 25.01.2024 in the captioned matter;

“.....this Court disposes of the present appeal along with pending applications with liberty to the Appellant to file an application for clarification of the order dated 25th January, 2024...”

3. It is submitted that Defendant No.7 Mr. Arun Sood has neither any interest in the suit property, as he is neither a co-owner, nor an occupant of the Suit Property nor has ever resided in it and was, therefore, not a party to



the suit. However, with an intent to harass the parties of the Suit, he got himself impleaded as the Defendant No. 7 vide Order dated 03.01.2018.

4. At the time of framing of issues, this Court had clearly passed the directions against Defendant No. 7 that since he is out of possession and is alleging 50 percent share in Suit Property in the nature of counter claim under Order 8 Rule 6A of CPC, he is liable to pay the requisite Court Fee.

5. It is therefore submitted that the Order dated 25.01.2024 be clarified to the extent that Defendant No. 7 be directed to pay the Court Fee on the market value of the alleged 50 percent share as claimed by him within 2 weeks.

6. Submissions heard.

7. From the perusal of the Order dated 25.01.2024, it is evident that Paragraph 8 only records the submissions made in regard to the directions being issued to the Defendant No.7 to pay the Court Fee on his alleged 50 percent share in the Suit Property.

8. After the submissions were heard, it has been recorded that since a separate issue has been framed (though incorrectly recorded as limitation instead of Court Fee), this Issue has been left to be decided at the time of final decision.

9. It is again reiterated because an issue in respect of deficit Court Fee has been framed as issue No. 5, the question of deficiency of Court Fee shall be adjudicated by virtue of the issue and shall be the subject matter of the final decision.

NEENA BANSAL KRISHNA, J

APRIL 3, 2024/PT