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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 373/2018 & I.A. 10085/2018, 4843/2019, 18864/2022**
& 37423/2024
AJAY KUMAR SINGHAL & ORS.

.....Plaintiffs

Through: Mr.D.S. Vohra, Adv.

versus

MANGE RAM GUPTA & ORS.

.....Defendants

Through: Mr.Abhinav Sharma &
Mr.Deepak Jain, Advs. for D-1.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

06.09.2024

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1. The Division Bench of this Court passed a Preliminary Decree *vide* Judgment dated 19.12.2022 in FAO(OS) 137/2022, declaring the shares of the parties in accordance with the settlement between the parties. The terms of the said settlement are recorded in the paragraph 3 of the said Judgment, and are reproduced hereinbelow:

“3. Paragraphs 9 to 14, which elaborate the compromise/ terms and conditions for passing a preliminary decree of partition between the parties are reproduced hereinbelow:

*9. It is submitted that during the pendency of the suit and the present appeal, the parties being close relatives have decided to amicably resolve their issues and disputes pertaining to suit property. The parties **have admitted and acknowledge the undivided 1/3rd share of each of three brothers thereto.***

10. That in between the legal heirs of



late Sh. Ram Saroop i.e. the Appellants and Respondents No. 1 to 6 and late Sh. Kallu Mal i.e. Respondent No.7, it is stated that the legal heirs of late Sh. Ram Saroop is entitled to $\frac{1}{2}$ share in the suit property i.e. property bearing 29, Church Lane, Bhogal, Jangpura, New Delhi admeasuring 342 sq. yards. Further, the legal heir of late Sh. Kallu Mal is entitled to the remaining $\frac{1}{2}$ share in the suit property i.e. property bearing 29, Church Lane, Bhogal, Jangpura, New Delhi admeasuring 342 sq. Yards

11. Thus, the legal heirs of late Sh. Ram Saroop i.e. the Appellants and the Respondents No.1 to 6 are entitled to 171 sq. yards out of 342 sq. yards of property bearing 29, Church Lane, Bhogal, Jangpura, New Delhi.

12. The legal heir of late She Kallu Mal i.e. Respondent No.7 is entitled to 171 sq. yards out of 342 sq. yards of property bearing 29, Church Lane, Bhogal, Jangpura, New Delhi. It is submitted that the legal heir of Shri Kallu Mal is in peaceful possession of their respective portion.

13. That further the legal heirs of late. Sh. Ram Saroop i.e. the Appellants and Respondents No. 1 to 6 have consented and agreed to ascertain and determine their respective shares in the property i.e. 171 sq. yards of property bearing 29, Church Lane, Bhogal, Jangpura, New Delhi as under:-

A. The legal heirs of Mange Ram Gupta i.e, Appellants, shall be entitled to 1/3rd share in the property i.e. 171 sq. yards of property bearing 29, Church Lane, Bhogal Jangpura, New Delhi. The individual shares of the Appellants are determined as under:

i. Santosh Kumari @ Shanti Devi -
1/30th



- ii. Ashok Kumar Singhal- 1/30th
- iii. Naresh Kumar Gupta alias Naresh Singhal - 1/30th
- iv. Shashi Aggarwal- 1/30th
- v. Disha Garg - 1/30th

B. The legal heirs of Jage Ram Gupta i.e. Respondents No.1 to 3 shall be entitled to 1/3rd share in the property i.e. 171 sq. yards of property bearing 29, Church Lane, Bhogal Jangpura, New Delhi. The individual shares of the Respondents No. 1 to 3 are determined as under:-

- i. Ajay Kumar Singhal- 1/18th
- ii. Vijay Kumar Singhal- 1/18th
- iii. Sapna Singhal- 1/18th

C. The legal heirs of Ishwar Dayal Gupta shall be entitled to 1/3rd share property i.e. 171 sq. yards of property bearing 29, Church Lane, Bhogal Jangpura, New Delhi. The individual shares of the Respondents No.4 to 6 are determined as under:-

- i. Pradeep Gupta – 1/18th
- ii. Sandeep Gupta - 1/18th
- iii. Anjana Gupta - 1/18th

14. That in view of the admitted shares of the parties as aforesaid, the parties have jointly approached this Hon'ble Court seeking the indulgence of this Hon'ble Court to pass a preliminary decree of partition determining the respective shares of the parties as stated above. Therefore, the parties are filing the present Joint application before this Hon'ble Court for recording the statement of the parties and thereafter passing of preliminary decree in respect of above noted shares thereof."



2. The Division Bench was also pleased to appoint a Local Commissioner to file a report suggesting the mode of partition by way of metes and bounds. The learned Local Commissioner filed a report dated 16.02.2023, observing as under:

“16. Keeping the aforesaid situation in mind, the undersigned is of the opinion that dividing the present structure physically (horizontally and vertically) will not result in equal distribution of the property in terms of their respective shares and monetary value. Further, partitioning the property physically shall also put all parties to disadvantage as it would not be possible for either of the parties to carry out new construction in the property without the consent of each other, due to which all the parties would always be at a disadvantage in terms of their accessibility, area, size and value. Therefore, given the backdrop of this old premise, physical partition of the subject suit property may not be a right option.

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19. Considering the present position and to bring quietus to the present protracted and future litigation between the parties, the subject property can be partitioned by way of Sale or an Interse Auction.

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21. An interse auction, is also an option to be considered by this Hon'ble Court. However, for this purpose, the real value of the suit property must be determined. That again, before considering this option, it would be advisable to have the property converted from leasehold to freehold.”

3. The learned counsels for the parties request that the matter be referred to mediation to explore the possibility of arriving at a



settlement through *inter se* bidding or otherwise for the sale of the property. They submit that the parties were earlier referred to mediation, however, unfortunately, could not arrive at a settlement. The learned counsels for the parties submit that Ms.Neha Jain, Advocate, was earlier appointed as a Mediator. They request that she may again be appointed as a Mediator.

4. Having considered the submissions of the learned counsels for the parties, the parties are referred to the Delhi High Court Mediation and Conciliation Centre, where they shall appear on 13.09.2024 at 4:00 PM. The Organizing Secretary of the Mediation Centre is requested to appoint Ms. Neha Jain, Advocate, as a mediator.

5. The parties shall consider *inter se* bidding for their respective shares of the Suit Property or any other mode by which the property can be sold at an agreed price.

6. List the matter before the Court on 18th November 2024.

NAVIN CHAWLA, J

SEPTEMBER 6, 2024/rv/VS

[Click here to check corrigendum, if any](#)