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

% ***Date of decision: 03rd October, 2024***

\+ FAO 76/2010 & CM APPL. 5341/2012

MARY LEELA THUKRAL .....Appellant

Through: Mr. Ramesh Kumar with Mr.Abhishek Gusain and Mr. Kartik Brundavan, Advocates

versus

DEEPIKA HINGORANI & ORS .....Respondents

Through: Mr. Vishesh Wadhwa with Ms.Swadha Gupta, Ms. Shubhangi Singh and Mr. Vishwam Mishra, Advocates for respondent No.1.
Mr. Brij Mohan Katyal, Husband of deceased respondent No.3

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T ***(oral)***

1. Appellant is aggrieved by judgment and order dated 26.10.2009 whereby the learned Trial Court has granted probate in favour of her other sister i.e. respondent No.1 - Ms. Deepika Hingorani in Probate Case No.292/06/04.

2. During course of the consideration, an application has been moved by appellant seeking impleadment of LRs of deceased respondent No.2 – Daisy Katiyal, who is stated to have died in July 2022.

3. Learned counsel for respondent No.1 states that he has no

objection if the above said application is allowed. He also does not dispute the contents of the above said application.

4. The application which is stated to have been filed vide Diary No.4205219/2024 is, accordingly, allowed. It be made part of portfolio file.

5. Let the Memo of Appeal be amended accordingly.

6. As per the averments made in the probate petition, the flat in question i.e. B-2C-77B, Janakpuri was owned by Sh. K.P. Mathai, who is father of appellant, respondent No.1 and respondent No.2 (since deceased). As per the Will left behind by Sh. K.P. Mathai, the aforesaid flat was first to go to his wife i.e. Mrs. Mabel Mathai and after the death of said mother, it was to go to respondent No.1 - Ms. Deepika Hingorani. However, it was also mentioned in the Will that Deepika at her own convenience but not later than two years from the date of death of her mother, shall pay the following amount to her other two sisters, either in installments or in lump sum which she would be getting, in case the above said flat was to be sold.

> 1) To my eldest daughter- Mrs. Mary Thukral 20% (Twenty percent) of the value of the flat.
>
> 2) To my youngest daughter- Mrs. Daisy Katyal- 30% (thirty percent) of the value of the flat.
> (The value may be fixed approximately by consent of all the three if practicable)

7. The appellant herein is Mary Thukral, who has, admittedly, been given 20% of the share in the above said flat, in case it is sold.

8. During course of the pendency of the above said probate petition, the appellant herein had filed objection and such objection has been dismissed and, simultaneously, the probate has been granted in favour of respondent No.1.

9. This appeal is pending since the year 2010 and with the excellent efforts made by learned counsel for the parties and after taking requisite instructions in this regard from the parties, the matter has been amicably resolved and the terms of the settlement are as under:-

(i) Respondent No.1 is aggreable to sell the above said flat in question i.e. B-2C-77B, Janakpuri and would make best efforts to dispose that of on or before 31.01.2025.

(ii) Out of the sale proceeds, as a good gesture and also while respecting the Will of their father, 25% of the sale consideration amount would be paid to the appellant herein.

(iii) The appellant, in all fairness, is not interested in finding out any buyer and leaves it to the sole discretion of her sister i.e. respondent No.1 to find out buyer and to sell the above said flat which is stated to have market value in the vicinity of Rs.40 to 50 lacs.

(iv) There are some unpaid bills with respect to the House Tax and electricity etc. and as agreed between the parties, the same shall be borne by respondent No.1.

10. Respondent No.1 – Ms. Deepika Hingorani is present in Court and she has also understood the terms of the settlement and is also

ready to abide by the aforesaid terms of settlement. She states that she would take requisite steps to sell the property and out of the sale proceeds, she would pay 25% of the amount to the appellant herein within two weeks of such sale.

11. Her such statement is taken on record.

12. In view of the above said settlement, learned counsel for the appellant submits that the appellant is not interested in pursuing and pressing her present appeal and, therefore, the appeal may be disposed of in terms of the above said settlement.

13. The appeal stands disposed of as not pressed in view of the above settlement.

(MANOJ JAIN)
JUDGE

OCTOBER 03, 2024/st