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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 438/2016 & I.A. No. 16302/2022
SH. SURENDRA KUMAR GUPTA Plaintiff
Through: Mr. Pranjal Kishore, Advocate.
(M): 9891374383
Email: Pranjal@chambers.com
versus
SH. ASHOK KUMAR GUPTA AND ORS Defendants
Through: Mr. Sameer Dewan with
Mr. Mukesh Kumar,
Advocates.
(M): 9810629420
Email: mukeshe.de@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
% **18.10.2022**

I.A. No. 16302/2022 (Application under Order XXVI Rules 4 and 4-A read with Section 151 CPC praying for appointment of commission for recording of evidence)

1. This is an application under Order XXVI Rules 4 and 4-A read with Section 151 CPC praying for appointment of commission for recording of evidence.
2. The present is a suit for partition, division, separate possession, declaration and injunction of various movable and immovable properties left behind by father of parties i.e. late Sh. Prem Prakash Gupta.
3. It has been brought to notice of this Court that witnesses of plaintiff have already been examined. The first witness of defendant



being DW-1 was examined way back in March, 2020. It is submitted that matter is now listed before Joint Registrar on 31.10.2022.

4. By way of the present application, it is prayed that a Local Commissioner be appointed for recording of evidence, so that matter can proceed further. Learned counsel for plaintiff submits that plaintiff is a resident of Mumbai while defendant no. 1 i.e. DW-1 Sh. Ashok Kumar Gupta is resident of Kolkata. Thus, it is submitted that present suit has remained pending for 6 years and therefore, for expeditious conclusion of evidence, a Local Commissioner may be appointed.

5. Considering the submissions made before this Court, the present application is allowed.

6. Ms. Zeba Khair, Advocate, (M): 9810602612, 8800507452, Email: zkadvocate@gmail.com is appointed as Local Commissioner to record the evidence.

7. Following directions are passed in this regard:-

(I) The local commissioner shall carry out the recording of evidence from within the High Court premises.

(II) In the case of requirement of any Court file, the registry shall make the arrangements to send the court file for the same before local commissioner. Rupees 1,000 is fixed towards the fees to be paid to the Court Staff to carry the Court file and the same shall be paid by the plaintiff.

(III) Fees of the local commissioner is initially fixed at lumpsome of Rs. 2,00,000/-.

(IV) Parties are directed to cooperate with the Local Commissioner.



8. List before the Local Commissioner on 27.10.2022 for fixation of dates for evidence.
9. List before Joint Registrar on 21.11.2022 for monitoring the recording of evidence.
10. With the aforesaid observations, the present application is disposed of.
11. A Copy of this order may be sent to Local Commissioner.
12. The next date of 31.10.2022 before the Joint Registrar is cancelled.

MINI PUSHKARNA, J

OCTOBER 18, 2022

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