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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 1161/2015 & I.A. 8777/2015, 13546/2017,
15129/2018, 1005/2021, 14014/2021, 14015/2021, 12722/2022,
18474/2022 & 1497/2023

RAKESH GUPTA & ANR

..... Plaintiffs

Through: Mr.R.K. Mishra & Ms.Diksha
Goswami, Advs.

versus

SUSHIL KUMAR GUPTA & ORS

..... Defendants

Through: Mr.Keshav Sehgal, Mr.Harkirat
Singh, Mr.Kashish Bajaj,
Mr.Shivam Gaur &
Mr.Shubham Agarwal, Advs.
for D-1 & D-2.
Ms.Charu Tyagi & Ms.Sukriti
Tyagi, Advs. for 4(a)(i), 4(a)(ii)
and 4(a)(iii).

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

07.02.2023

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1. The learned counsel for the parties have brought to my attention the order dated 16.12.2022 passed in FAO(OS) 154/2016 titled ***Sushil Kumar Gupta & Anr v. Rakesh Gupta & Ors.***, which reads as under:-

“The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. Without prejudice to the rights and contentions of the appellants, their learned counsel submits, that more than six years have gone by since the impugned order has permitted the respondents (plaintiffs) to occupy the first and second floor of the property. He submits that the disposal of the suit in an expedited manner could well be in the interest of the parties.

2. The learned counsel say that their respective evidence could be recorded within one month each and they would request the



learned suit court for expediting hearing of the case and for recording of evidence through a Local Commissioner and the costs of the said process would be borne equally by the parties. The learned counsel for the parties submit that they will request the learned Single Judge to take up the matter for early disposal preferably, within a period of eight months.

3. The court is informed that of the three deceased respondents, the LRs of two respondents have been brought on record and the LR of one deceased respondent is to be brought on record.

4. The learned counsel for the plaintiff submits that the appropriate application is being moved and the process of bringing the LRs of the deceased parties is underway.

5. Let the parties appear before the learned Single Judge on 10.01.2023.

6. The appeal is disposed-off as not pressed.”

2. The learned counsels for the parties point out that the Legal Heirs (in short ‘LRs’) of the deceased defendants have been brought on record. They further pray that the evidence in the present suit be recorded through the Local Commissioner, to expedite the disposal of the suit.

3. I must herein note that the learned counsel for the LRs of defendant nos.4, that is, 4(a)(i), 4(a)(ii) and 4(a)(iii), submits that the said defendants would like to explore the possibility of an amicable settlement with the other parties. To this, the learned counsels for the plaintiffs and defendant nos.1 and 2 submit that this is primarily a dispute between the plaintiffs and the defendant nos.1 and 2 and for the LRs of the defendant no.4 to explore possibility of a settlement, further proceedings in the suit need not be detained. In any case, it would be open to these defendants to amicably settle their disputes, if any, with the plaintiffs.

4. I accordingly appoint Mr. S.N. Gupta, Advocate, Tel No. 9810077343 as a Local Commissioner to record the evidence of the parties. The fee of the learned Local Commissioner is fixed at



Rs.55,000/- for the first five sittings to be shared equally between the plaintiffs and the defendant nos.1 and 2. In case, further sittings are required by the learned Local Commissioner to complete the recording of evidence, the fee of the Local Commissioner shall be Rs.11,000/- per sitting, to be again equally shared by the plaintiffs and the defendant nos.1 and 2.

5. The parties shall appear before the learned Local Commissioner on 28.03.2023 at 3:00 PM.
6. List before the Court on 10th August, 2023.
7. The pending applications shall also be listed for consideration on the above-mentioned date.
8. The date of 17.04.2023 before this Court shall stand cancelled.

NAVIN CHAWLA, J

FEBRUARY 7, 2023/rv