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ITEM NO.9

COURT NO.8

SECTION XIV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

I.A. 5-6/2015 in Petition(s) for Special Leave to Appeal (C) No(s).  
6408-6409/2009

(Arising out of impugned final judgment and order dated 20/10/2008  
in RFA No. 416/2002 20/10/2008 in CMM No. 633/2004 passed by the  
High Court Of Delhi At New Delhi)

PRAVEEN KUMAR RASTOGI LR. OF BIMLA DEVI RASTOGI Petitioner(s)

VERSUS

PREMA DEVI RASTOGI Respondent(s)

(for directions and office report)

Date : 05/01/2017 These applications were called on for hearing  
today.

CORAM : HON&#39;BLE MR. JUSTICE A.K. SIKRI

HON&#39;BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s) Mr. Vikas Mahajan, Adv.

Mr. Vishal Mahajan, Adv.

Mr. Vinod Sharma, Adv.

Mr. S.S. Rai, Adv.

Mr. Arun Singh, Adv.

Mr. Bhaskar Y. Kulkarni, Adv.

Mr. Saroj Kumar Thakur, Adv.

Mr. Rajinder Mathur, Adv.

For Respondent(s) Mr. Davinder Singh, Sr. Adv.

Mr. S. Sukumaran, Adv.

Mr. Anand Sukumar, Adv.

Mr. Bhupesh Kumar Pathak, Adv.

Ms. Meera Mathur, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Special Leave Petitions were disposed of by this Court vide  
order dated November 26, 2012.

â- S We have heard learned counsel for the parties.

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According to them, the only possibility is that both  
the parties may find out a buyer and the property may  
be put to sale to the person who makes the highest  
offer and the money may be divided among the parties  
equally.

The said exercise may be completed within six months  
and the property be sold to the person making highest  
offer. In which eventuality, the parties shall  
vacate the property forthwith and both the parties  
shall handover the vacant possession to the  
purchaser.â- \235

As is clear from the aforesaid order, in the suit for  
partition of the suit property, i.e., property constructed on  
land measuring 180 sq. yards in No. 54-A, East Azad Nagar,  
Krishna Nagar, Delhi, this Court has come to the conclusion  
that the aforesaid property cannot be partitioned by metes and  
bounds. Parties have agreed that the only solution is to sell  
the property and distribute the sale proceeds among the parties  
equally.

Though, six months&#39; time was given for this purpose,  
nothing has materialized even when more than four years have  
passed. It is alleged in the application by the  
applicant/respondent that she had approached some property  
dealers, who in turn, took some buyers to the said premises on  
several occasions but the prospective buyers could not examine  
the property as the same is in occupation of the  
petitioners/non-applicants herein who did not cooperate and  
refused to show the property to the prospective buyers.  
Because of this, prayer made in these applications is to direct

the petitioners/non-applicants to vacate the property and

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appoint Court Commissioner to dispose of the same by auction and/or otherwise in order to enable the parties to get the proceeds thereof in equal shares. Learned counsel for the petitioners/non-applicants has no objection if the Court Commissioner is appointed. He, however, states that no useful purpose would be served in vacating the property by the petitioners/non-applicants at this stage and assures that complete inspection of the property shall be provided to all prospective buyers and it is also assured that as soon as the buyer is found out, petitioners/non-applicants shall vacate the property forthwith and handover the possession to such a successful buyer. Having regard to the aforesaid, we may dispose of the applications with the following directions:

(a) Mr. Bhupinder Jhamb, Assistant Registrar (Mobile No. 9717922283) of the High Court of Delhi is appointed as the Court Commissioner of the property who will conduct the auction by following due procedure in this behalf and he would be competent to sell the property to the highest bidder.

(b) Any prospective buyers/bidders who would like to inspect/examine the property by visiting therein, shall be given due access to the property by the petitioners/non-applicants and shall not cause any hindrance of any nature whatsoever, in this behalf.

(c) As soon as a buyer is found who pays the consideration for the property, the said buyer shall be given peaceful

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and vacant possession of the property in-question and for this purpose the petitioners/non-applicants shall immediately vacate the property. Fee of the Court Commissioner is fixed at Rs.1,00,000/-(Rupees One Lakh only), which will be shared equally by the parties. The Court Commissioner was also be paid other expenses which would be incurred in carrying out the auction/sale of the property which will be shared by the parties equally. Interlocutory Applications Nos.5-6/2015 are, accordingly, disposed of.

(Ashwani Thakur) (Mala Kumari Sharma)

COURT MASTER

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