

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 9510 OF 2010

NITENDRA GUPTA (D) THR.LRS.

APPELLANT(S)

VERSUS

VIRENDRA GUPTA & ORS.

RESPONDENT(S)

WITH

C.A. No. 9511/2010

O R D E R

The central issue to be decided in these appeals is reflected in the order dated 30.11.2016 and, therefore, we reproduce this order in its entirety:

"The preliminary decree passed on 18th September, 2006 has become final between the parties. The partition of the immovable property situate at 87, Sunder Nagar, New Delhi by meets and bounds cannot be done. To do the complete justice between the parties, the only option is to sell the property or either of the brothers may purchase the share of the other.

We feel it appropriate that each of the brothers may get the current market value of the property evaluated by their own valuer and submit a report in a sealed cover within a month.

List these appeals on 10th January, 2017.

The Court will consider as to whether any of the brothers can purchase the share of the others by offering appropriate price on the next date of

hearing."

It may only be added that the dispute is among three brothers relating to the division of property bearing No.87, Sunder Nagar, New Delhi. As per the preliminary decree, shares of Virendra Gupta and Robindra Gupta are 30 per cent each and that of 3rd brother Nitendra Gupta (since dead), which stands inherited by his wife Mamta Gupta, is 40 per cent. There is no dispute about the aforesaid facts.

The apportionment of the property in the aforesaid shares is the result of family settlement which was arrived at on 14.09.1982 between these three brothers and one sister - Meena Sengupta as well. At the time of family settlement, Meena Sengupta was paid a sum of Rs.1,50,000/- (Rupees one lac fifty thousand only) in the year 1982 which she accepted. In the suit for partition in the Delhi High Court that was filed by Virendra Gupta as plaintiff, Meena Sengupta was also impleaded as defendant No.3. She, however, never appeared not only in the suit but even in appeals that were filed against some of the orders passed in the suit. Once the preliminary decree has become final, it is not open to her to challenge the same, which she has attempted to do by filing Civil Appeal No.9511/2010 (arising out of SLP(C) No.17728/2008). Even otherwise after filing Civil Appeal No.9511/2010, she did not appear in the Court either on 10.01.2017 or today. Civil Appeal No.9511/2010 is, accordingly, dismissed.

In pursuance of the direction contained in the order dated 30.11.2016 passed by this Court, all the three parties have filed their Valuation Reports. As per the valuation report of Mamta Gupta, widow of Nitendra Gupta, the market value of the property is Rs.69.60 crores. Robindra Gupta has given the valuation report stating the value of the property at Rs.86.75 crores, whereas valuation report submitted by Virendra Gupta discloses the value at Rs.95.33 crores.

In view of the aforesaid variations, matter was discussed at length. All the parties, including their counsel, suggested that this Court may fix suitable value, taking into consideration these valuation reports and the market conditions prevailing today. After deliberating on the issue in the open Court, we suggested the value of the property at Rs.82 crores, which is acceptable to all the parties. It was also agreed that Mamta Gupta, at the aforesaid value, shall purchase the shares of Virendra Gupta and Robindra Gupta. The property is yet to be converted into freehold for which both Virendra Gupta and Robindra Gupta agreed to extend their full cooperation.

Having regard to the above, we dispose of Civil Appeal No. 9510/2010 in the following terms:-

- (1) Value of the property is fixed at Rs.82 crores.
- (2) Since Mamta Gupta is purchasing the shares of Virendra Gupta and Robindra Gupta, she shall pay 30 per cent each of the aforesaid value to Virendra Gupta and Robindra

Gupta, which comes to Rs.24.60 crores to each of the two persons, which shall be paid in the following manner:-

(a) 25 per cent of the aforesaid amount shall be paid within two weeks.

(b) Balance of 75 per cent amount shall be paid at the time of execution of the sale deed by Virendra Gupta and Robindra Gupta.

(3) Before the sale deed can be executed, it is necessary to get the property converted into freehold. For this purpose, all the requisite documents shall be signed by Virendra Gupta and Robindra Gupta on receipt of 25 per cent consideration of their respective shares and handed over to Mamta Gupta. She will submit the papers to L&DO and/or N.D.M.C. (as the case may be) and the aforesaid authorities, on completion of all the formalities, shall convert the property into freehold.

Expenses and fee etc. for the said conversion will be borne by Mamta Gupta.

(4) If the property is not converted into freehold within three months from today, balance 75 per cent consideration shall be deposited in the High Court which shall be released in favour of Virendra Gupta and Robindra Gupta on the execution of the sale deed by them.

(5) Once the property is converted into freehold, sale document shall be prepared by Mamta Gutpa at her expense and shall be registered with the Sub-Registrar.

(6) Virendra Gupta and Robindra Gupta shall extend their

full cooperation in all respects by signing the aforesaid documents as well as any other documents that are required in this behalf, in order to ensure that the aforesaid arrangement is fully effected.

Pending applications also stand disposed of.

.....J.
[A.K. SIKRI]

.....J.
[R.K. AGRAWAL]

NEW DELHI;
JANUARY 12, 2017

ITEM NO.1

COURT NO.8

SECTION XIV

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

Civil Appeal No(s). 9510/2010

NITENDRA GUPTA (D) THR.LRS.

Appellant(s)

VERSUS

VIRENDRA GUPTA & ORS.

Respondent(s)

(With appln.(s) for directions, directions, permission to file documents, permission to file documents and office report)

WITH

C.A. No. 9511/2010
(Office Report)

Date : 12/01/2017 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Appellant(s) Mr. A.S. Chadha, Sr. Adv.
Mr. Alok K. Agarwal, Adv.
Mr. Ravi Chandra Ganesh, Adv.
Mr. Rajesh Kumar, Adv.
Ms. Garima Prashad, Adv.

Mr. M. C. Dhingra, Adv. (N.P.)

For Respondent(s) Mr. Vikas Singh, Sr. Adv.
Mr. Arvind Nayar, Adv.
Ms. Nandadevi Deka, Adv.
Mr. Kapish Seth, Adv.
Mr. Praveen Agrawal, Adv.

Respondent-in-person.

Mr. M. C. Dhingra, Adv. (N.P.)

UPON hearing the counsel the Court made the following
O R D E R

C.A.No.9511/2010

The civil appeal is dismissed in terms of the signed order.

C.A. No. 9510/2010

The civil appeal is disposed of in terms of the signed order.

Pending applications also stand disposed of.

(SWETA DHYANI)

SR.P.A

(MALA KUMARI SHARMA)

COURT MASTER

(Signed order is placed on the file)