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

+ CS(OS) 243/2015 & I.A. 14352/2019.

ANUJ NATH AND ORS. Plaintiffs

Through: Mr. Manish Makhija, Advocate.

versus

NARENDER NATH AND ORS. Defendants

Through: Appearance not given

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **25.03.2022**

1. The only contesting Defendants here are Defendants No. 1a and 1b. The other Defendants have been served and have not appeared before the Court, and accordingly, are being proceeded against *ex parte*.
2. Plaintiffs pray for a preliminary.
3. The facts of the present suit have been encapsulated in a previous order dated 27th January, 2020, nonetheless it is considered apposite to reproduce the same for the purpose of passing a preliminary decree.
4. The present suit is for partition of House No. 2526, Churiwalan, Delhi, [hereinafter referred to as the "***the suit property***"] which was the undisputed property of late Smt. Pisto Devi, who died on 14th November, 1992. The husband of late Smt. Pisto Devi had pre-deceased her. She had six children, out of which two had also pre-deceased her. The present suit has been instituted by the wife and sons of late Shri. Surender Nath, who was one of the sons of late Smt. Pisto Devi. Her surviving descendents,



representing each of the other five branches, have been impleaded as defendants in this suit. The Plaintiff claims that each branch is entitled to 1/6th share in the suit property and seeks partition on this ground.

5. Defendant No. 1a herein is the son of late Shri. Rajender Nath, who is one of the pre-deceased sons of late Smt. Pisto Devi. Another suit bearing CS(OS) 663/2011 has been filed by two daughters of late Shri. Rajender Nath.

6. That the branch of each of the six children of late Smt. Pisto Devi is entitled to 1/6th share in the suit property is not disputed. Further, the *inter se* shares of each branch of the family is also not controverted.

7. As none of the Defendants herein raise any dispute *qua* their shares of the property, accordingly, a preliminary decree is passed declaring the share of the parties to the suit property as follows: -

PARTIES TO THE SUIT	PERCENTAGE SHARE IN THE SUIT PROPERTY
Plaintiffs No. 1 to 3	5.56% each
Defendants No. 1a to 1d	4.17% each
Defendant No. 2	16.67%
Defendant No. 3a	4.17%
Defendant No. 3b-1, 3b-2 and 3b-3	1.39% each
Defendant No. 3c-1, 3c-2 and 3c-3	1.39% each
Defendant No. 3d	4.17%
Defendants No. 4a to 4c	3.33% each
Defendant No. 4d-1 and 4d-2	1.66% each
Defendant No. 4e	3.33%
Defendant No. 5	16.67%

8. Counsel for the parties state that the suit property cannot be partitioned by metes and bounds, and thus, the only course of action now



available, is to sell the same by way of an auction.

9. List for further consideration on 26th May, 2022.

SANJEEV NARULA, J

MARCH 25, 2022

as