



2025:DHC:9681



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 04.11.2025*+ **CM(M) 2101/2025, CM APPL. 68699/2025 & 68698/2025**

PRANAB THAREJA

.....Petitioner

Through: Mr. Moni Chinmoy, Advocate

versus

PALLAV THAREJA

.....Respondent

Through: None

CORAM: JUSTICE GIRISH KATHPALIA**ORDER (ORAL)**

1. Petitioner/plaintiff has assailed order dated 24.09.2025 of the learned trial court, whereby petitioner/plaintiff was granted 30 days to amend the plaint *qua* suit valuation and affix proper court fees, failing which the plaint would be rejected. Since summons in the suit are yet to be ordered, there is no need to issue notice of this petition.

2. I have heard learned counsel for petitioner/plaintiff.

3. The petitioner/plaintiff filed a suit for partition and declaration on the basis of Sale Deed dated 16.08.1994, whereby the subject property was purchased by plaintiff and his brother (*defendant*). As pleaded by petitioner/plaintiff, he is in possession of the subject property jointly with the defendant. It being a suit for partition in which the plaintiff is in possession of the subject property, the court fees payable would be the fixed



2025:DHC:9681



court fees. However, the petitioner/plaintiff paid *ad-valorem* court fees on higher amount calculated on the basis of the sale consideration of the subject property as recorded in Sale Deed dated 16.08.1994. The learned trial court took a view that the valuation has to be on the basis of the market value of the subject property and not on the basis of the consideration paid at the time of purchase thereof. It would also be significant to record that on behalf of petitioner/plaintiff, it was contended before the trial court that in case respondent/defendant raises objection with regard to court fees and suit valuation, the petitioner/plaintiff depending upon decision of the trial court would pay the deficit court fees, if any, prior to the decree.

4. Considering the above circumstances, especially the specific pleadings of the petitioner/plaintiff that he continues to be in joint possession of the subject property and has already paid the court fees on the basis of sale consideration, higher than the fixed court fees, coupled with the undertaking of the petitioner/plaintiff to pay the deficit court fees, if any, prior to decree of the suit, I am unable to uphold the impugned order.

5. Therefore, the impugned order is set aside and the present petition is allowed. Accompanying applications also stand disposed of.

**GIRISH KATHPALIA
(JUDGE)**

NOVEMBER 4, 2025/as