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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 20th May, 2025**

+ EX.F.A. 2/2025

SADHU SINGH AND ORS.(SINCE DECEASED)THROUGH
THEIR LRS

.....Appellant

Through: Mr. Kirti Uppal, Senior Advocate with
Mr. Sunil Satyarthi, Ms. Archisha
Satyarthi, Ms. Amita Saxena, Mr.
K.K. Ojha and Mr. Amitanshu
Satyarthi, Advocates

versus

HARDEEP KAUR (SINCE DEASED) AND ORS THROUGH HER
LRS & ORS.

.....Respondent

Through: Ms. Sonali Malhotra, Mr. Kritika
Gupta, Mr. Prachi Dutta and Mr.
Vaibhav Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Mr. Kirti Uppal, learned Senior Counsel for petitioner/judgment debtor reiterates that the petitioner herein have no objection and reservation if the boundary wall/partition wall is constructed in terms of directions contained in impugned order dated 04.12.2024. He, however, submits that before raising construction of any such wall, it is imperative to install staircase so that the access of the petitioner to his premises is not compromised or impaired in any manner whatsoever. The portions, which have come to the share of the judgment debtor, are from ground floor to top floor and it is apprehended by them that if the boundary wall is constructed, without there being any separate staircase, they would not be in a position to enjoy their such portions.
2. Impugned order dated 04.12.2024 also refers to the report of Local



Commissioner and the relevant portion of the said report, as extracted in Para-12 of the judgment, is as under:-

“Ld. Local commissioner filed detailed report. The relevant portion of the said report with respect to the objections in hand is as under:-

Hence, after perusing the aforesaid valuation report, in my considered opinion, the division of the land should be in the following way:-

(a). The two front portions should be of area measuring 43.33 sq. yds. each, totaling 86.66 sq.yds., which will make up the front half.

(b). The two rear portions should be of area measuring 46.66 sq. yds. Each, totaling 93.33 sq.yds., which will make up the rear half.

The grand total comes to 180 sq.yds. The suit plot is bounded as ABCD in the site plan.

Defendant no. 1 (Sh. Sadhu Singh) can be allotted portion measuring 46.66 sq.yds., (Dimension :15x 28') in the rear side (entrance from the service lane) towards the right side (ie. just behind the portion allotted to the plaintiffs). Same is shown in red colour and bounded as AEIH in the site plan.

Defendant no. 3 (Sh. Sewinder Singh) can be allotted portion measuring 46.66 sq.yds., in the rear side (entrance from the service lane) towards the left side of the plot (i.e. just behind the portion allotted to the defendant no. 2). Same is shown in orange colour and bounded as EBFI in the site plan. A Site plan clearly showing the proposed allotment to the parties in different colors is enclosed.

Having suggested this mode of vertical division the parties shall be entitled to their respective portions/areas from the ground floor up to sky. Accordingly, the parties shall vacate such areas in their occupation / possession, which does not conform to the proposed division and they shall possess/occupy the portions proposed to be allotted by this report. This, of course, is subject to appropriate orders by this Hon'ble Court.

Subject to the building bye-laws, if applicable, the parties shall be entitled to construct their own separate stair case. At present, there is one common staircase at the main entrance. Since, the division is being suggested in above manner, the said existing common staircase shall be demolished and the parties shall be entitled to construct their own separate independent staircase.

It is, however, up to those parties who are willing to join together, to construct common staircase, if they chose so. Further, the parties may construct the partition walls on all the floors in this suit property in terms of the proposed division. All the parties shall extend due cooperation to each other for the purpose of erection of staircase and partition walls, in letter & spirit The parties shall bear their own expenses for the said purposes.”

(emphasis supplied)



3. Thus, even as per the report of Local Commissioner, which has been accepted by the learned Trial Court, subject to *Building Bye-laws*, all the parties have been permitted to construct separate staircase/common staircase, as the case may be.

4. In such a situation, before any such partition wall is raised and constructed, it will be appropriate to construct such staircase to ensure access-rights.

5. At the same time, construction / erection of such staircase cannot be a ploy to delay the raising of boundary wall and, therefore, with the consent of the parties, the matter is referred to the learned Trial Court and the learned Trial Court would give requisite direction to the respective parties for the purposes of constructing the respective staircase or common staircase in a time-bound manner in conformity with the *Building Bye-laws* and once it is done, thereafter, petitioner herein, as undertaken, would not raise any grievance with respect to the construction of boundary wall/partition wall.

6. Petition stands disposed of in the aforesaid terms.

7. All the pending applications are also disposed of in the aforesaid terms.

8. Matter is stated to be listed before the learned Trial Court on 30.05.2025. Parties are accordingly directed to appear before the learned Trial Court on said date and the learned Trial Court, after hearing both the sides, would pass appropriate orders in terms of the aforesaid directions.

9. Next date i.e. 04.09.2025 fixed before this Court stands cancelled.

(MANOJ JAIN)
JUDGE

MAY 20, 2025/dr/shs