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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CO.APP. 28/1981, C.M. Nos.54699/2019 (for modification of order dated 15th November, 2019), 2197/2020 (for directions), 5902/2020 for directions), 9877/2020 (for correction of order dated 14th February, 2020) & 16624/2020 (of Atlantic Publishers & Distributors (P) Ltd. for acceptance of bid and issuance of sale certificate).

BALRAJ KISHAN GUPTAAppellant

Through: Appellant in person.

Versus

PANNA LAL GIRDHAR LAL P.LTD.& ORS ...Respondents

Through: Mr. Sandeep Mittal, Adv. for R-1,2&7.
Mr. Lalit Gupta & Mr. Siddharth Arora,
Advs. for Dr. A.K. Gupta.
Mr. Arvind Bhatt, Adv. for R-3(iii b)
M.K. Gupta.
Mr. N.K. Kantawala & Ms. Shruti Dutt,
Advs. for Ms. Sushma Agarwal, LR of
Hari Kishan Gupta.
Mr. Kunal Sinha, Adv. for Respondent
(Jai Kishan Das branch)
Ms. Amita Singh Kalkal & Mr. Prashant
Singh, Advs. for applicant Atlantic
Publishers & Distributors (P) Ltd. in
CM No. 16624/2020.
Mr. Suryakant Singla, Adv ./Court
Commissioner.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **18.09.2020**

[VIA VIDEO CONFERENCING]

CM APPL. 23164/2020 (of the appellant, respondent no.3(iii-b) and respondent no.5 (for clarification)).

1. Vide last order dated 13th August, 2020 passed in pursuance to the earlier orders w.e.f. 28th July, 2020, the proposed draft sale deed to be executed by the

Court Commissioner, was directed to be filed and the matter posted for 21st September, 2020.

2. This application has been filed by the appellant Balraj Krishan Gupta, respondent no.3(iii-b) Maharaj Krishan Gupta and respondent no.5 Avtar Krishna Gupta through their Advocates Mr. Arvind Bhatt and Mr. Lalit Gupta, seeking clarification “Whether the share in the property received by a son on partition of a HUF is “HUF” or “individual” in his hands?”

3. The application is filed invoking Section 151 of the Code of Civil Procedure, 1908 (CPC).

4. Neither Section 151 of the CPC nor any other provision of law vests in this Court, acting as the Company Appeal Court, advisory jurisdiction. It is surprising that advocates are moving application, seeking legal opinion of the Court; not only so, there are several other advocates including an advocate as Court Commissioner, in the matter. The application is thoroughly misconceived.

5. However one of us (Justice Rajiv Sahai Endlaw) will be demitting office on 13th August, 2021 and the advocates are at liberty to approach him for advice at that time, by deferring the execution of the sale deed till then!

6. Dismissed with liberty aforesaid!

7. Mr. Lalit Gupa, Advocate states that he has not even signed the application and his name has just been added at the foot of the application without consulting him.

RAJIV SAHAI ENDLAW, J

ASHA MENON, J

SEPTEMBER 18, 2020

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