

CS No. 10164/16
Jag Mohan Gupta Vs Girdhari Lal (Deceased)

26.05.2026

Present: Sh Ayush Chauhan & Ms Tia Sachdeva Ld Counsel for the plaintiff
no 2 (A) a/w plaintiff no 2 (A) in person.

Sh Rohan Sharma, Gurtejpal Singh & Sh Jai Dogra Ld Counsel for
the defendant no 1 C (a) to 1 C (d).

None for defendant no 1 (d), 1(e), 2(a), 2(b), 3(b), 3(C), & 4 (a).

Sh S S Jain Ld Counsel for LRs defendant no 10 a/w LRs Sh Ashok
Jain & Sh Vardhman Jain.

Sh Mayank Bansal Ld Counsel for LRs of defendant no 11 a/w Sh
Sanjay Jain and Rajiv Jain.

Ms Amita Singh Ld Counsel for Urban Improvement Company Pvt
Ltd. (through VC)

Vide separate judgment/order announced in the open court, the present
suit filed by the plaintiff is partly decreed.

The Final Decree be drawn accordingly subject to filing of valuation
report with respect to the suit property and upon payment of requisite stamp duty.

M/s Urban Improvement Company Pvt Ltd is directed to keep depositing
the amount being deposited by them towards use and occupation charges which
amount shall be available to the executing court to be disbursed to the parties in terms
of the final decree.

File be consigned to record room after due compliance.

(Sachin Sood)
DJ-01 (Central)
THC, Delhi/26.05.2026.

**IN THE COURT OF SH. SACHIN SOOD,
DISTRICT JUDGE-01 (CENTRAL), THC, DELHI.**



CS No 10164/2016

CNR No. DLCT01-000001/2016

1. Shri Jag Mohan Gupta,
son of late Shri Prem Raj,
'Prem Bhawan',
W-11/10, DLF City,
Phase - III,
Gurugram - 122 002.

[In terms of Preliminary Decree, holds 1/4th share in the Property(ies)]

**(Only Plaintiff in terms of Plaints dated 06th December 1972; and Amended
Plaints dated 23rd May 1974 and 25th September 1978)**

**(Service affected upon Plaintiff No. 1 vide Publication dated 14th March
2025)**

(No Appearance/ Representation)

2. Shri Chander Mohan Gupta (Since deceased),
son of late Shri Prem Raj
(D.O.D.: 17.01.2014)

**[In terms of Preliminary Decree, holds 1/4th share in the Property(ies), and
is being represented by Plaintiff No. 2A]**

Through:

- 2A. Shri Nitin Gupta,
son of late Shri Chander Mohan Gupta,
P-3/42 A, DLF City,
Phase - II,
Gurugram - 122 002.

(Shri Chander Mohan Gupta was transposed from Defendant No. 13 to Plaintiff No. 2 vide Order dated 14.10.1987)

(Plaintiff No. 2A was impleaded vide Order dated 26.05.2015)

(Plaintiff No. 2A is being represented through Adv. Ayush Chauhan and Adv. Tia Sachdeva)

...Plaintiffs

Versus

1. Shri Girdhari Lal Jain (Since deceased),
son of late Shri Phool Chand Jain
(D.O.D.: 10.08.1982)

[In terms of Preliminary Decree, holds 1/18th share in the Property(ies), and is being represented by Defendant Nos. 1A(i) to (iii), 1B(i) to (iii), 1C(A) to (D), 1D and 1E]

Through:

1A. Smt. Madam Kumari Jain (Since deceased),
wife of late Shri Girdhari Lal Jain
(D.O.D.: 26.10.2000)

Through:

1A(i). Smt. Subhash Jain (since deceased),
daughter of late Shri Girdhari Lal Jain

Through:

Shri Shashank Jain,
1-2-9, Sardar Patel Road,
Next to Coromandel House,
Secunderabad - 500 003
Landline No.: 040-27815510

1A(ii). Smt. Radha Garg
daughter of late Shri Girdhari Lal Jain,
15/79, Civil Lines,

Cashel Lodge, Kanpur - 208 001
Mob No.: 9838101109

1A(iii). Smt. Indu Aggarwal,
daughter of late Shri Girdhari Lal Jain,
Bhagwati Niwas, Bhagwati
Prasad Marg, Ali Nagpur,
Gorakhpur, U.P. - 273 001
Mob No.: 9935510510

**[Defendant Nos. 1A(i) to 1A(iii) are represented through Adv. Aashna Arora
and Adv. Gurtejpall]**

1B. Shri Bipin Chand Jain (since deceased),
son of late Shri Girdhari Lal Jain
(D.O.D.: 10.06.2018)

Through:

1B(i). Shri Manu@ Manu Jain,
son of late Shri Bipin Chand Jain,
M-66, 3rd Floor, Saket,
New Delhi - 110 017.

(Impleaded vide Order dated 15.07.2025)

**(Service affected upon Defendant No. 1B(i) vide Publications dated
06th February 2025 and 14th March 2025)**

**(Defendant No. 1B(i) is being represent through Adv. Gaurav
Gupta)**

1B(ii). Smt. Alka Jain,
daughter of late Shri Bipin Chand Jain,
B-63, 3rd Floor, Sarvodaya Enclave,
New Delhi - 110 017.

(Impleaded vide Order dated 15.07.2025)

**(Service affected upon Defendant No. 1B(ii) vide Publications dated
06th February 2025 and 14th March 2025)**

(No Appearance/ Representation)

1B(iii). Smt. Divya Jain,
daughter of late Shri Bipin Chand Jain,
19, Vandana House,
Inder Road, Dehradun,
Uttarakhand - 248 001.

All, also at:
C-215, Ground Floor, Sarvodaya Enclave,
New Delhi - 110 017.

(Impleaded vide Order dated 15.07.2025)

(Service affected upon Defendant No. 1B(iii) vide Publications dated 06th February 2025 and 14th March 2025)

(No Appearance/ Representation)

1C. Shri Devender Chander Jain (since deceased),
son of late Shri Girdhari Lal Jain
(D.O.D.: 19.01.2018)

Through:

1C(A). Smt. Bina Jain (wife);
1C(B). Shri Rajeev Jain (son);
1C(C). Shri Nitin Jain (son); and
1C(D). Smt. Neeti Jatia (daughter)

All at:
D-6, Kalindi,
New Delhi - 110 065.

(Impleaded vide Order dated 29.07.2025)

(Service affected upon Defendant No. 1C(A) to 1C(D) vide Publications dated 06th February 2025 and 14th March 2025)

[Defendant Nos. 1C(A) to 1C(D) are represented through Adv. Aashna Arora and Adv. Gurtejpal]

1D. Shri Sharat Chand Jain,
son of late Shri Girdhari Lal Jain,
D-6, Kalindi,
New Delhi - 110 065.

(Service affected upon Defendant No. 1D vide Publication dated 14th March 2025)

(Defendant No. 1D is being represent through Adv. Gaurav Gupta)

1E. Shri Ajay Kumar Jain,
son of late Shri Girdhari Lal Jain,
D-6, Kalindi,
New Delhi - 110 065.

(Service affected upon Defendant No. 1E vide Publication dated 14th March 2025)

(Defendant No. 1E is being represent through Adv. Gaurav Gupta)

(Defendants No. 1A to 1E were impleaded vide Order dated 19.04.1995)

2. Shri Bimal Pershad Jain (since deceased),
son of late Shri Phool Chand Jain
(D.O.D.: 03.08.1991)

[In terms of Preliminary Decree, holds 1/18th share in the Property(ies), and is being represented by Defendant Nos. 2A to 2D]

Through:

2A. Shri Arun Kumar Jain,
son of late Shri Bimal Pershad Jain,
D-1083, New Friends Colony,
New Delhi - 110 024.

(Service affected upon Defendant No. 2A vide Publication dated 14th March 2025)

(Defendant No. 2A is being represent through Adv. Gaurav Gupta)

- 2B. Shri Tarun Kumar Jain,
son of late Shri Bimal Pershad Jain,
D-400, Defence Colony,
New Delhi.

(Service affected upon Defendant No. 2B vide Publication dated 14th March 2025)

(Defendant No. 2B is being represent through Adv. Gaurav Gupta)

- 2C. Smt. Manju Jain,
daughter of late Shri Bimal Pershad Jain,
H-1, Trendset Vintage, Ground Floor,
Banjara Hills, Road No. 14,
Telangana - 500 034, Hyderabad
Mob. No.: 7093670632

- 2D. Smt. Anju Jain,
daughter of late Shri Bimal Pershad Jain,
25, Friends Colony (West),
New Delhi
Mob. No.: 9810082260

**(Defendants No. 2A and 2B were impleaded vide Order dated 19.04.1995)/
(Defendants No. 2C and 2D have not been impleaded)**

3. Shri Trilok Chand Jain (since deceased),
son of late Shri Phool Chand Jain
(D.O.D.: 08.03.1991)

**[In terms of Preliminary Decree, holds, 1/18th share in the Property(ies), and
is being represented by Defendant Nos. 3B to 3D]**

Through:

- 3A. Smt. Sarojini Jain (since deceased),
wife of late Shri Trilok Chand Jain
(D.O.D.: 08.09.1999)

Through:

- 3B. Shri Dinesh Kumar Jain,
son of late Shri Trilok Chand Jain,
D-423, Defence Colony,
New Delhi - 110 024.

(Service affected upon Defendant No. 3B vide Publication dated 14th March 2025)

(Defendant No. 3B is being represent through Adv. Gaurav Gupta)

- 3C. Shri Rakesh Kumar Jain (since deceased),
son of late Shri Trilok Chand Jain,
D-422, Defence Colony,
New Delhi - 110 024.

Through:

- 3C(i) Meena Jain,
wife of late Shri Rakesh Kumar Jain,
- 3C(ii) Atulya Jain,
son of late Shri Rakesh Kumar Jain,
- 3C(iii) Archana Jain,
daughter of late Shri Rakesh Kumar Jain,

All at:
D-422, Defence Colony,
New Delhi - 110 024.

(Service affected upon Defendant No. 3C vide Publication dated 14th March 2025)

(Defendant No. 3C(i) to 3C(iii) are being represented through Adv. Gaurav Gupta)

- 3D. Smt. Rekha Rathi,
daughter of late Shri Trilok Chand Jain
29, Sadhna Enclave, Panchsheel,
New Delhi

Mob. No.: 9810812120

**(Defendants No. 3A to 3C were impleaded vide Order dated 19.04.1995)/
(Defendant No. 3D has not been impleaded)**

4. Shri Virender Kumar Jain (since deceased),
son of late Shri Ishri Pershad Jain
(D.O.D: 28.03.2021)

**[In terms of Preliminary Decree, holds 1/12th share in the Property(ies), and
is being represented by Defendant Nos. 4A to 4C]**

- 4A. Smt. Poonam Jain,
daughter of late Shri Virender Kumar Jain,

(Impleaded vide Order dated 15.07.2025)

**(Service affected upon Defendant No. 4A vide Publications dated 06th
February 2025 and 14th March 2025)**

(Defendant No. 4A is being represent through Adv. Gaurav Gupta)

- 4B. Smt. Shivani,
daughter of late Shri Virender Kumar Jain,
C-13A, Green Park Main,
New Delhi-110 016.

(Impleaded vide Order dated 15.07.2025)

**(Service affected upon Defendant No. 4B vide Publications dated 06th
February 2025 and 14th March 2025)**

(Defendant No. 4B is being represent through Adv. Gaurav Gupta)

- 4C. Mr. Puneet Jain,
son of late Shri Virender Kumar Jain,

All, at:
D-1063, New Friends Colony,
New Delhi.

Also at:
E-1/4, DLF Phase-I,
Gurugram, Haryana

(Impleaded vide Order dated 15.07.2025)

(Service affected upon Defendant No. 4C vide Publications dated 06th February 2025 and 14th March 2025)

(No Appearance/ Representation)

5. **Given up vide Preliminary Decree**

6. Shri Sanjeev Kumar Jain (since deceased),
son of late Shri Sher Singh Jain
(D.O.D.: 15.12.2017)

[In terms of Preliminary Decree, holds 1/12th share in the Property(ies), and is being represented by Defendant Nos. 6A to 6D]

Through:

- 6A. Smt. Bela Jain (wife)
- 6B. Shri Samir Jain (son)
- 6C. Shri Siddharth Jain (son)
- 6D. Smt. Sarika Mundhra (daughter)

All at:
62, Western Avenue,
Sainik Farms,
New Delhi - 110 062.

All also at:
D-405, Defence Colony,
New Delhi - 110 024.

All, also at:
W-50/6, Sainik Farms,
New Delhi - 110 062.

(Impleaded vide Order dated 29.07.2025)

(Service affected upon Defendant Nos. 6A to 6D vide Publications dated 06th February 2025 and 14th March 2025)

(No Appearance/ Representation)

7. **Given up vide Preliminary Decree**
8. **Given up vide Preliminary Decree**
9. **Deleted vide Order dated 14.04.1978**

[In terms of Preliminary Decree, Estate of late Shri Nihal Chand Jain holds 1/12th share in the Property(ies), and is being represented by Defendant Nos. 10A to 10D and 11(i) to 11(iv)]

10. Shri Vikram Kumar Jain (since deceased),
son of late Shri Nihal Chand Jain
(D.O.D.: 28.12.2010)

Through:

- 10A. Smt. Saroj Jain,
wife of late Shri Vikarm Kumar Jain,
A-63, Nirman Vihar,
Delhi - 110 092.
- 10B. Shri Ashok Jain,
son of late Shri Vikram Kumar Jain,
1, Madhuban,
Delhi - 110 092.
- 10C. Smt. Amita Jain,
daughter of late Shri Vikram Kumar Jain,
6/67, New Raj Nagar,
Ghaziabad, Uttar Pradesh.
- 10D. Shri Vardhman Jain,
son of late Shri Vikram Kumar Jain,
A-63, Nirman Vihar,
Delhi - 110 092.

(Defendant No. 10A to 10D impleaded vide Order dated 17.01.2011)

(Defendant Nos. 10A to 10D are being represented through Adv. S.S. Jain)

11. Shri Chikram Kumar Jain (since deceased),
son of late Shri Nihal Chand Jain
(D.O.D.: 27.05.2000)

Through:

- 11(i). Smt. Saroj Jain (since deceased) (D.O.D.: 12.05.2021)
(deleted vide Order dated 29th November 2025)

- 11(ii). Shri Sanjay Jain,
son of late Shri Chikram Kumar Jain,
D-386, Sector-10,
Noida, Uttar Pradesh - 201 301.

- 11(iii). Shri Rajeev Jain
son of late Shri Chikram Kumar Jain,
B-127, First Floor,
Preet Vihar,
Delhi - 110 092.

Also at:

B-31/F-1, Ekta Homes, Shalimar Garden Extension-2
Sahibabad, Uttar Pradesh - 201 005.

Also at:

1789, First Floor, Dariba Kalan,
Chandni Chowk, Delhi - 110 006

- 11(iv). Smt. Neelima Jain **(deleted vide Order dated 29th November 2025)**

(Defendant No. 11(i) to 11(iv) impleaded vide Order dated 18.04.2001)

(Defendant Nos. 11(ii) & 11(iii) are represented through Adv. Mayank Bansal)

- 11A. Deleted vide Order dated 14.07.2025

- 11A(i). Deleted vide Order dated 14.07.2025
- 11A(ii). Deleted vide Order dated 14.07.2025
- 11A(iii). Deleted vide Order dated 14.07.2025
- 11A(iv). Deleted vide Order dated 14.07.2025
- 11A(v). Deleted vide Order dated 14.07.2025
- 11A(vi). Deleted vide Order dated 14.07.2025
- 11A(vii). Deleted vide Order dated 14.07.2025
- 11A(viii). Deleted vide Order dated 14.07.2025
- 11A(ix). Deleted vide Order dated 14.07.2025
- 11B. Deleted vide Order dated 14.07.2025
- 11C. Deleted vide Order dated 14.07.2025
- 11D. Deleted vide Order dated 14.07.2025

Date of Institution : 08.12.1972

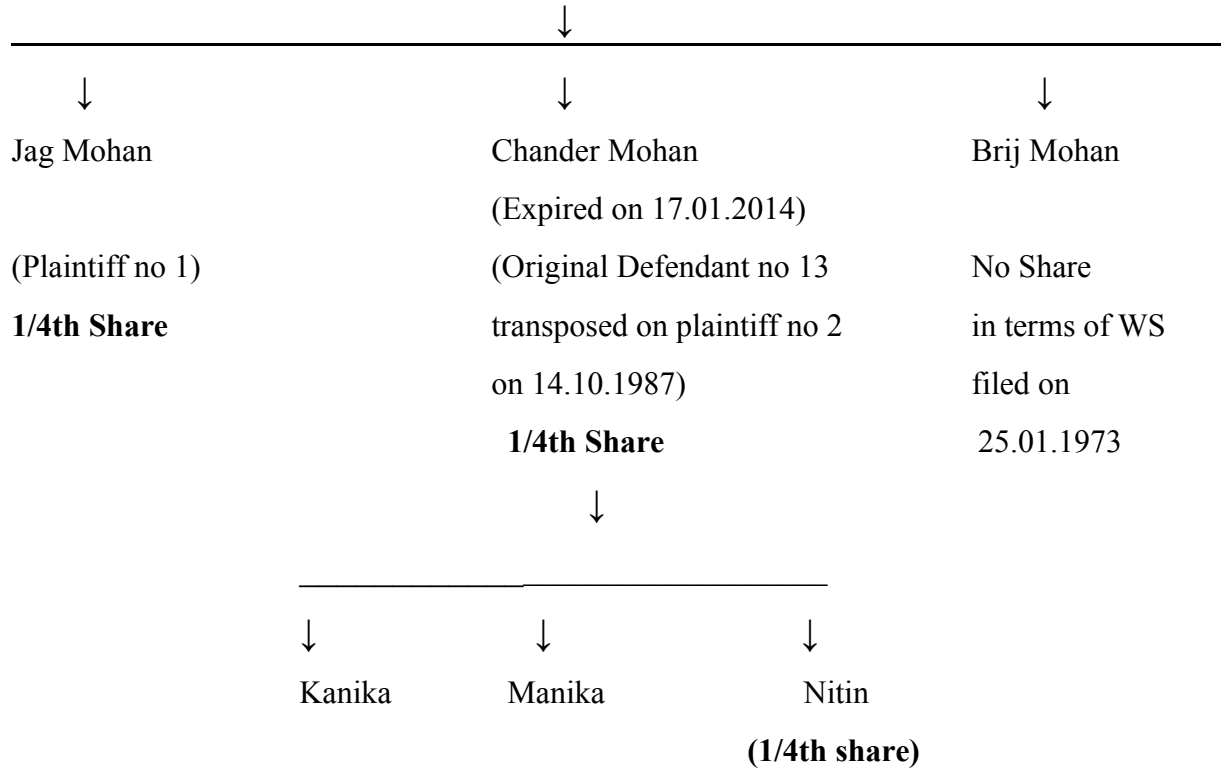
Date of judgment : 26.05.2026

JUDGEMENT/ORDER

1. In order to appreciate the present matter, it is deemed necessary to give a pedigree of the parties. Keeping in view that the said pedigree of parties is extremely long, it is deemed appropriate to separately mention the family pedigree of the parties as follows:

PREM RAJ

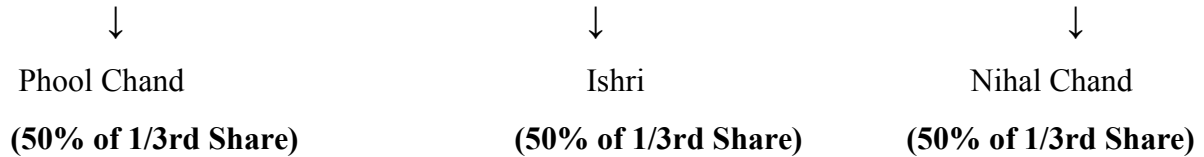
[50% (1 / 2) share in the suit property]



(As per joint statements recorded by the court on 20.05.2015, both Kanika and Manika have relinquished their shares in favour of Sh Nitin Gupta)

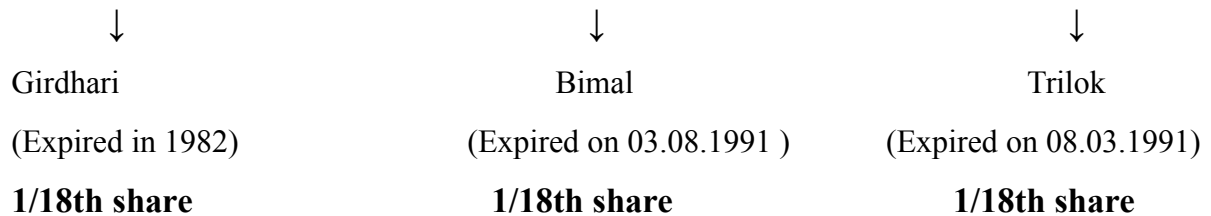
SAMMAN LAL

[50% (1 / 2) share in the suit property]



BRANCH OF PHOOL CHAND

(collectively having 1/6th Share)



BRANCH OF GIRDHARI
(collectively having 1/18th Share)

↓

↓	↓	↓	↓	↓	↓	↓	↓
Madan Kumari	Bipin	Devender (Expired on 19.01.2018)	Sharat	Ajay	Subhash	Radha	Indu

(EACH HAVING 1/126th SHARE)

Wife	Son	Son	Son	Son	Daughter	Daughter	Daughter
	↓	↓	↓		↓		
			↓		(expired and represented by Sh Shashank Jain		
↓	↓	↓	↓				
Alka	Divya	Manu	↓				
(1/378th share each)			↓		(HAVING 1/126th SHARE)		
			↓				

↓	↓	↓	↓
Beena	Rajiv	Nitin	Neeti

(1/504th share each)

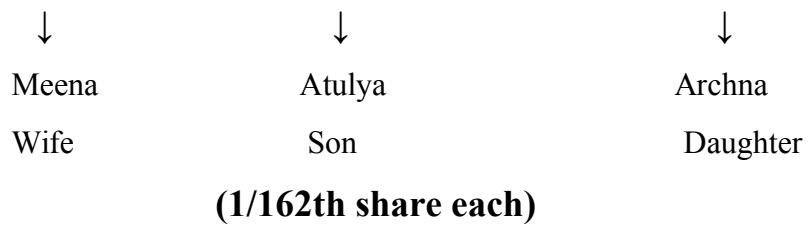
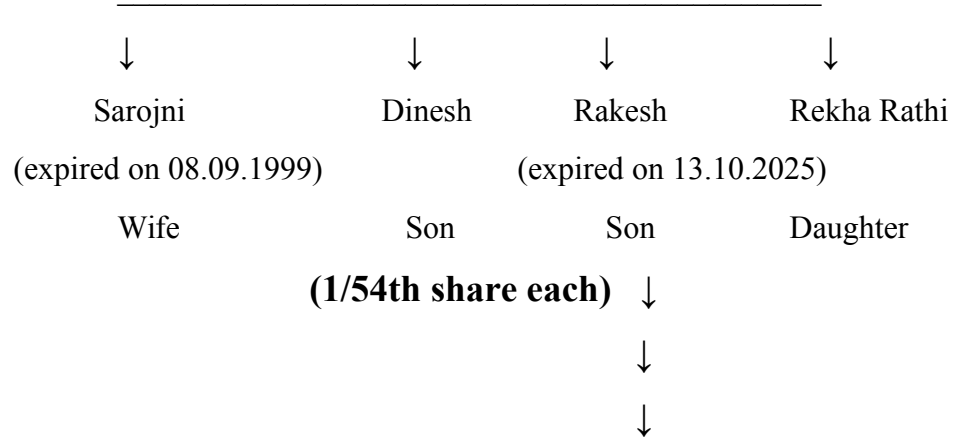
BRANCH OF BIMAL
(collectively having 1/18th Share)

↓

↓	↓	↓	↓
Arun	Tarun	Manju	Anju
(1/72th share)	(1/72th share)	(1/72th share)	(1/72th share)

BRANCH OF TRILOK
(collectively having 1/18th Share)

↓



BRANCH OF NIHAL CHAND
(collectively having 1/6th Share)

↓

↓	↓	↓	↓	↓	↓	↓
Inderwati	Shakuntla	Sumitra	Santosh	Kumkum	Vikram	Chikram
(wife)	(daughter)	(daughter)	(daughter)	(daughter)	(son)	(son)
					(1/12th share)	(1/12th share)

(Inter-se shares determined vide decree dt 18.03.2000 which has attained finality and only Vikram and Chikram are held entitled to the estate left by Sh Nihal Chand and Inderwati)

LRs of VIKRAM (defendant no 10)
(1 /12th share in the suit property)

↓

↓	↓	↓	↓
Saroj	Ashok	Amita	Vardhman Jain
(wife)	(son)	(daughter)	(son)
(1/48th share)	(1/48th share)	(1/48th share)	(1/48th share)

Note: A Civil Suit being 417/2017 is stated to be pending before Hon'ble High Court of Delhi whereby the Will Executed by Sh Vikram is being contested.

LRs of CHIKRAM (defendant no 11)

(1 /12th share in the suit property)

↓

↓	↓	↓	↓
Saroj	Sanjay	Rajiv	Neelima
(wife)	(son)	(son)	(daughter)
	(1/24th share)	(1/24th share)	

Suit for partition filed amongst the LRs of Sh Chikram which attained finality vide decree dt 15.03.2010.

2. The present suit for partition was filed initially amongst two branches i.e. Sh Prem Raj and Sh Samman Lal who were the joint purchasers of the suit property vide sale deed dt 27.03.1930. Vide preliminary decree dt 02.01.1980, it was declared that the plaintiff (Jag Mohan Gupta) and defendant no 13 (Chander Mohan Gupta) (transposed as plaintiff no 2 on 14.10.1987) both sons of Sh Prem Raj have 1/4th share each in the suit property. It was further declared that Sh Girdhari Lal, Sh Bimal Prashad, Sh Trilok Chand all sons of Sh Phool Chand have 1/18th share in the suit property. It was further declared that Sh Virender Kumar S/o Sh Ishri Pershad and Sh Sanjiv Kumar S/o Sh Sher Singh have 1/12th share in the suit property. It was further declared that the remaining share 50% of 1/6th vest in the estate of Lala Nihal Chand.

3. So far as the branch of Sh. Prem Raj is concerned which is represented by the plaintiff, Sh. Jagmohan Gupta and Sh. Chandra Mohan Gupta (originally impleaded as defendant no. 13 and transposed as plaintiff no. 2 vide order dated 14.10.1987), there was no dispute with respect to their entitlement of the shares (50% = 1/4th each in the suit property). The third son of Sh. Prem Raj i.e. Sh. Brij Mohan who had expired on 14.06.1963 was represented in the suit through his LRs viz. Defendants 14 to 17 i.e. Smt. Kamla Devi (widow), Ashwani Kumar Gupta, Rajeev Kumar Gupta and Pradeep Kumar Gupta.

4. The aforesaid LRs of Sh. Brij Mohan Gupta in their written statement filed on 25.01.1973 had claimed no share in the suit property and the statement of Smt. Kamla Devi was recorded by the Court to this effect on 25.01.1973.

5. So, the third son of Sh. Prem Raj i.e. Sh. Brij Mohan since had not claimed any share in the suit property and neither any of his LRs had claimed the same hence, the branch of Sh. Brij Mohan Gupta was allocated no share vide the preliminary decree dated 02.01.1980.

6. After the passing of the preliminary decree Sh Girdhari Lal having 1/18th share expired in the year 1982 leaving behind his widow Smt Madan Kumari, son Sh Bipin, son Sh Devender, son Sh Sharat, son Sh Ajay, daughter Smt Subhash, daughter Smt Radha and daughter Smt Indu. Sh Bipin s/o Sh Girdhari

Lal S/o Sh Phool Chand also expired leaving behind 3 LRs i.e. daughter Smt Alka, daughter Smt Divya & son Sh Manu.

7. Sh Sharat Chander Jain s/o Sh Girdhari Lal S/o Sh Phool Chand also expired leaving behind his widow Smt Beena, son Sh Rajiv, son Sh Nitin and daughter Smt Neeti.

8. Sh Bimal S/o Sh Phool Chand having 1/18th share also expired leaving behind 4 LRs. i.e. Sh Arun, Sh Tarun, Smt Manju & Smt Anju.

9. Sh Trilok S/o Sh Phool Chand having 1/18th share also expired leaving behind his widow Smt Sarojni, Son Sh Dinesh, Son Sh Rakesh and daughter Smt Rekha Rathi.

10. So far as the branch of Sh. Samman Lal is concerned, Sh. Samman Lal was survived by three sons i.e. Sh. Phool Chand, Sh. Ishri and Sh. Nihal Chand. Each son of Sh Samman Lal was collectively entitled to 50% share in the suit property. The LRs of the branch representing Sh. Phool Chand i.e. Sh. Girdhari (defendant no. 1), Sh. Bimal (defendant no. 2) and Sh. Trilok (defendant no. 3) is concerned, there was also no dispute with respect to their respective shares devolved upon Sh. Phool Chand ($\frac{1}{3}$ rd of 50 % = $\frac{1}{18}$ th share each in the suit property)

11. Similarly, the branch representing Sh. Ishri is concerned, he was survived by two sons and one widow i.e. Sh. Virender (defendant no. 4), Sher Singh and

Smt. Suraj Devi. The sons of Sh Ishri i.e Sh Virender is entitled to 1/12th share and Sh Sher Singh is entitled to 1/12th share. Sh Virender expired on 28.03.2021 leaving behind 2 daughters i.e Smt Poonam and Smt Shivani and one son Sh Punit.

12. Sh. Sher Singh son of Sh. Ishri was survived by widow Smt. Shanti Devi (defendant no. 4), son Sh. Sanjeev Kumar (defendant no. 6) and two daughters viz. Sudha (defendant no. 7) and Sujata (defendant no. 8)

13. Since Sh. Sher Singh who had expired in the year 1970 had executed a Will thereby excluding his widow and his daughters, his share devolved exclusively upon his son Sh. Sanjeev. Thus Sh Sanjeev (defendant no 6) is entitled to 1/12th share in the suit property.

14. The third son of Sh. Samman Lal is Sh. Nihal Chand. He is entitled to 50% of 1/3rd share i.e. 1/6th share in the suit property.

15. Sh. Nihal Chand was survived by his two sons i.e. Sh. Vikram (defendant no. 10) and Sh. Chikram (defendant no. 11) besides his widow Smt. Inderwati and four daughters i.e. Shakuntala (represented through defendant no. 11A(i) to 11A(ix), Smt. Sumitra (defendant no. 11B expired on 10.05.1999), Santosh i.e. Defendant no. 11C and Smt. Kumkum Jain (defendant no. 11D).

16. As mentioned in the preliminary decree, Lala Nihal Chand had left a WILL in favour of his two sons i.e Sh Vikram and Sh Chikram who are entitled

to 1/12th share each in the suit property. Late Lala Nihal Chand vide his WILL had excluded his four daughters from his estate and his widow i.e. Smt. Inderwati had also executed a WILL excluding the four daughters and had bequeathed her share in favour of her two sons of Lala Nihal Chand i.e. Sh Vikram (defendant no 10) and Sh Chikram (defendant no 11).

17. Keeping in view that there were inter-se disputes in the branch representing late Lala Nihal Chand, it was directed vide the findings on Issue no. 4 of the preliminary decree dated 02.01.1980 that the aforesaid inter-se disputes be determined vide separate proceedings.

18. Separate proceedings had taken place between the branch of Lala Nihal Chand and a decree has been passed by the Court of Ms. Manju Goel in suit bearing no. 504/1997 whereby only the two sons of Lala Nihal Chand i.e. Sh. Vikram and Sh. Chikram have been held entitled to the shares and assets left behind by Lala Nihal Chand in equal shares to the exclusion of all the other LRs of Lala Nihal Chand as per the WILL left by Lal Nihal Chand and Smt. Indrawati. The aforesaid decree was passed on 18.03.2000 and there is no challenge to such a decree till date and the same has attained finality. Thus, the share belonging to Sh Nihal Chand has vested in his two sons i.e. Sh Vikram (defendant no 10) and Sh Chikram (defendant no 11) who are each entitled to 1/12th share in the suit property.

19. Thus from the aforesaid as on date with the passage of time there are 26 number of legal heirs from the branch of Sh Phool Chand who are entitled to collectively 1/6th share in the suit property.

20. Similarly there are 14 number of legal heirs from the branch of Sh Ishri who are entitled to collectively 1/6th share in the suit property.

21. In the branch representing Sh Nihal Chand S/o Sh Samman Lal only 2 LRs are entitled to collectively 1/6th share in the suit property i.e. 1/12th share each.

22. Vide his report the Ld LC has suggested the following course of action in partitioning the suit property as follows:

“After hearing the parties, spot inspection and several meetings, there is no consensus regarding the manner in which the property could be divided. Brief note of proposal given by P2A, D10 and D11 is attached herewith as Annex ‘B’. Efforts were also made so that the parties could mutually agree regarding the manner in which they could settle but parties could not arrive at any consensus regarding the manner in which the property could be divided by meets and bounds.

Having regard to the other pendency of other cases, the existence of several tenants having purchased part portions of shops, multiple parties and their LRs, the property cannot be split or conveniently divided among the share holders. Therefore, the only option which can be suggested is the sale of the property after arriving at its market valuation by the court. Off course, the property can be offered to the parties, if any of them is willing to buy out at its

market price failing which the court may mandate the public auction, in accordance with the procedure provided and distribution of the amount in proportion to their shares.”

23. There is no concrete report by the Local Commissioner suggesting his mode of partition of the property by metes and bounds. The entire matter rests upon the parties for division of the property, however, the parties were given repeated opportunities to compromise the matter and to arrive at certain amicable settlement for the purpose of division of the property, however, in spite of giving repeated opportunities, the parties due to their huge number were not able to arrive at any amicable settlement for division of the property.

24. The Ld. Counsel for the Plaintiff no 2 appearing in person has argued that the property cannot be divided by metes and bounds and also that the only recourse available is to put the property to sale through auction. The Plaintiff no 2 is entitled to 1/4th share in the suit property.

25. As per the Local Commissioner report, the suit property comprises of built as well as unbuilt portion and litigation with respect to the unbuilt portion is pending before Hon'ble High Court of Delhi. The ground floor comprising of 7 shops viz. Shop no F-1, F-2, F-3, F-4, F-5, F-6 & F-7. The shops bearing no F-1, F-2, F-4, F-5 & F-6 have been sold by all the parties except Sh Vikram and Sh Chikram. The shop bearing no F-7 have been sold by all the parties to the

present suit. Thus, there is one shop on the ground floor viz F-3 which is in the joint ownership of all the parties. Litigations is stated to be pending before Hon'ble High Court of Delhi where in defendant no 10 Sh Vikram has challenged the execution of the sale deeds.

26. The first floor of the suit property as per the submission made by the parties comprises of 2 offices i.e F-31 & F-32. The office viz. F-31 is in the possession of plaintiff no 2. The office viz F-32 is in the possession of M/s Urban Improvement Company Pvt Ltd in their capacity as a tenant and who are depositing 50% of the monthly user charges @ Rs 1 lakh in this court and which is ordered to be deposited in the fixed deposit.

27. On the terrace of the said property, there are two barsatis viz F-48 & F-49. One barsarti Viz. F-48 is in the possession of plaintiff no 2(a) & the other barsati Viz. F-49 is in the possession of defendant no 2 (a) i.e. Sh Arun Kumar. As per the LC report, the property admittedly is situated in the lutan zone where it is not possible to raise additional construction or to sub divide the same. As per the report, the first floor is also occupied by certain third parties, who are alleged to be tenants in the property.

28. In view of the construction existing upon the built up portion of the suit property including the fact that majority of the parties except defendant no 10 & 11 have sold their undivided shares in the 5 shops existing at the ground floor

and considering the fact that the first floor of the suit property cannot be divided by metes and bounds so as to give exact share to the parties and also considering the fact that the suit property falls in lutan zone where no sub division of the property is permissible, this Court is satisfied that the only mode available is either to sell the built up portion of the property or to invoke Section 3 of the Partition Act. The principles of the auction sale are as under:

PRINCIPLES OF AUCTION SALE

Section 2 of the Partition Act, 1893 is reproduced as under:

"2. Power to court to order sale instead of division in partition suits. Whenever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein, or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the shareholders, the court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds."

29 The Full Bench of Hon'ble High Court of Delhi has recently dealt the issue of Sale of the property in Partition in Case bearing O. REF. 2/2018 in CS(OS) 1098/2005 titled as Indu Singh and Anr. Versus Prem Chaudhary and Ors. decided on 11.05.2018. The paras No.4 to 6 of the said Judgment is reproduced herein:

"4(i). The meaning of partition", in one more sense, is to give a person his monetary value of the share in the joint properties. Before passing of the Partition Act 1893, the concept of partition only meant partition by metes and

bounds or physical partition of the joint properties. In many cases on account of the fact that physical partition by metes and bounds was not possible, hence there resulted a stalemate, because neither the properties could be physically partitioned by metes and bounds nor could sale take place of the joint properties because there was no concept prevalent of partition having the effect of giving a person his monetary value share in the joint properties by selling the joint properties. Partition Act was enacted to remedy this failing. By the Partition Act it was provided for the first time that in case a joint property could not be physically partitioned by metes and bounds (including by applying the principle of owelty or equalisation) then in such a scenario the joint property could be sold. I may note that owelty means that when by physical partition a co-owner gets less or more physical property than falling to as per his percentage share in a joint property, then in such a case final partition is effected by, besides physically partitioning the property, in addition also awarding a monetary amount to a person who gets a lesser share of the property on partition than the monetary value equivalent of his share. The person who gets a share which is larger than his monetary value/entitlement, on partition becomes liable to pay a monetary amount to a person who gets a share lesser than is his monetary value entitlement of his share in the joint property/properties. Owelty principle is thus an equalisation principle.

"(ii) Enactment of the Partition Act however did not provide a complete cure because an entitlement to sell the joint property/properties was only when more than one moiety or upwards of the shareholders agree that the joint property/properties are to be sold. Moiety means 50% or a half share. Therefore in a scenario where less than 50% of the joint owner(s) wanted an order of sale, then such an order of sale could not be passed. Therefore though the bringing into force of the Partition Act did remedy some shortcoming in the position of the partition law prevailing before the passing of the Partition Act by entitling the sale of the joint property/properties, yet even after passing of this Act there still remained a failing/shortcoming in the situation where if 50% or more of the joint owners did not agree for sale then once again there was a stalemate because partition could not be effected of the joint property/properties either by physical partition by metes and bounds or by selling the joint property/properties and giving a monetary value from the sale proceeds of the joint property/properties to a co-owner as per his share percentage in the joint property/properties. We note that there is an aspect with respect to an order of sale under the Partition Act to be deemed to be a decree in terms of Section 8 of the Partition Act and this aspect will be adverted to in detail hereinafter inasmuch as the provision of Section 8 of the Partition Act existing in this Act is the main reason for reference to this Full Bench.

"5(i). The Partition Act was passed in the year 1893 and Code of Civil Procedure was passed later in the year 1908. There are two provisions of CPC which are relevant to the issues at hand, and which are the provisions of Order XX Rule 18 and Order XXVI Rule 14. These provisions have already been reproduced above.

"(ii) A reference to Order XX Rule 18 CPC shows that properties of which partition take place are of two types. First type of properties are agricultural properties i.e. those properties which pay land revenue to the Government. Qua such properties the provision of Sub-Rule (1) of Order XX Rule 18 CPC applies. Second type of properties are the properties in urban areas and with respect to partition of such properties, it is the provision of Sub-Rule (2) of Order XX Rule 18 which applies.

"(iii) As per Order XX Rule 18 Sub-Rule (1) in a suit for partition there is only one decree which is passed and the ministerial act of physical division of joint property/properties is left to the Collector or a person deputed by the Collector as is provided in Section 54 CPC. Therefore with respect to partition suits of properties paying land revenue to the Government, after a decree was passed declaring the shares of the parties, then by the same decree the Collector or a person deputed by the Collector is appointed to bring about physical division of the properties in terms of the shares declared in the decree.

"(iv) So far as urban immovable properties are concerned which are not the subject matter of Sub-Rule (1) of Order XX Rule 18 CPC, Sub-Rule (2) of Order XX Rule 18 CPC provides that where partition cannot be conveniently made without further enquiry, then first a preliminary decree is passed declaring shares/rights of the parties, and thereafter further directions as are required in the facts and circumstance of the each case are passed. Of course, even with respect to immovable properties which are subject matter of Sub-Rule (2) of Order XX Rule 18 CPC there can be cases where it may not be required to pass first only a preliminary decree, and that in certain cases a Court can pass both a preliminary and final decree by one judgment if the properties which are subject matter of the suit for partition are such that the Court can physically divide the joint properties in terms of the shares of the joint owners.

"(v) Of course, the factum of physical division of the properties, whether under Sub-Rule (1) or under Sub-Rule (2) of Order XX Rule 18 CPC, the same would also be; where facts of a case so require; by also applying the principle of owelty, because surely and in many cases partition by metes and bounds does result in a person getting that physical share of the property/properties which will be less or more than the monetary value percentage share of that co-owner/joint owner in the properties. The principle of owelty (i.e. an equalization

amount) is found and clearly so specified under Order XXVI Rule 14 SubRule (1), and this SubRule (1) of Order XXVI Rule 14 will apply to partition of the properties which are subject matter of both SubRule (1) and SubRule (2) of Order XX Rule 18 CPC.

"6.(i) At this stage it will be extremely relevant to note two important aspects.

(ii) First aspect is that while SubRule (2) of Order XX Rule 18 CPC provides that a court may on account of the facts and circumstances as regards the properties which are subject matter of the suit for partition, find that straightaway a final decree for partition cannot be passed giving physical shares in the joint properties to the joint owners, then therefore in such cases, the court passes only a preliminary decree declaring the shares of the parties, and that after passing of the preliminary decree, a court has; as per the last line and set of words of SubRule (2) of Order XX Rule 18 CPC; powers to pass "such further directions as may be required". These words appearing at the end of the SubRule (2) of Order XX Rule 18 CPC are very important and of great significance because these words in my opinion has removed the shortcoming which had still remained in spite of passing of the Partition Act as regards the situation when one moiety or upwards of the shareholders did not want sale of the suit properties. With respect to properties which were not subject matter of payment of land revenue to the government, then with respect to such properties which are subject matter of Order XX Rule 18 SubRule (2) CPC, court was given intendedly the power to pass such further directions as may be required, and such a wide expression therefore in my opinion will entitle a civil court to order for sale of the joint property/properties even if moiety or upwards of the shareholders do not want sale of the joint property/properties. This language of the last few words at the end of Order XX Rule 18 SubRule (2) in my opinion becomes very important and relevant in today"s age and date because a considerable number of immovable properties which are subject matter of suits for partition are properties which have been constructed many decades earlier and which is the next aspect which is being immediately adverted to hereinafter.

"(iii) The second aspect is that over a period of time in urban areas the covered area of construction which is permissible on a plot has been steadily increasing. For example in Delhi previously on a plot ordinarily a ground floor, first floor and a barsati floor (part second floor) was only allowed to be constructed. Barsati floor means that the entire second floor is not allowed to be covered but the second floor which is called as a barsati floor is allowed to be only partly covered. The municipal law thereafter changed whereby almost the entire second floor was allowed to be covered. Thereafter, the municipal law has further changed and a third floor was allowed to be constructed, besides allowing construction of a basement on a property. Now in addition to a plot

having a basement and four floors, in view of the scarcity of parking of vehicles in a city like Delhi on account of the existence of unending number of vehicles, stilt parking is also permitted to be made below the ground floor and above the basement floor. Since the ultimate object and the real intention of the joint properties being partitioned is to give a person his monetary value equivalent of his percentage share in the joint property/properties, and since now additional Floor Area Ratio (FAR)/covered area permissible, therefore in old constructed properties, simply by physically dividing the existing construction the same does not result in a person getting his monetary value of his percentage share in the joint property/properties. Partition therefore really in today's date and age in urban areas is a partition in terms of FAR/covered area, and once that is so, then on such FAR/covered area being available to a co-owner/joint owner then such a person may/would/could want to reconstruct for enjoying more constructed area falling to his share, and which will necessarily require bringing down the old construction and thereafter making fresh construction on the plot of basement plus four floors and stilt parking. Thus in very old constructed properties simply physically partitioning of such joint property/properties is not the answer, and the joint property/properties in many cases have necessarily to be sold so as to give a person his actual monetary share value in the joint property/properties. At this stage I would hasten to add that with respect to sale of a joint property, the entitlement of a co-owner in terms of Sections 3,4, 6 and 7 of the Partition Act come in, whereby on an order being passed of sale of a joint property, the sale is not necessarily and firstly by public auction/sale, because firstly in the sale proceedings, one or more co-owners can buy out the other co-owner/co-owners i.e. rights of pre-emption.

"(iv) Therefore in my opinion the words as found in the last line of SubRule (2) of Order XX Rule 18 CPC would result in a position that as of today there no longer exists any gap or shortcoming or failing which would result in a stalemate if joint owner(s), having less than a 50% share, ask for his/their share by filing a suit for partition of the joint property/properties.

30. I have perused the file and have carefully recorded the number of the co-sharers in the suit property. I concur with the report as filed by Local Commissioner to the effect that looking into the multiple parties and their LRs the property cannot be divided amongst them in metes and bounds and the best course of action is to sell the property by first offering an option to the parties to

purchase the shares of the other parties. Keeping in view the fact that different areas of the suit property have different valuations and which valuation are not agreed to by the other parties and also keeping in view the fact that the property falls within the lutan zone where it is not possible to sub divide the properties, the proposal given by defendant no 10 is rejected who has submitted that his proposal was not considered by Ld Local Commissioner.

31. Ld Counsel for defendant no 11 has similarly submitted that his proposal too has not been considered by Ld Local Commissioner as appointed by the court. Perusal of the proposal submitted by defendant no 11 confirms the fact that shop no F-1, F-2, F-4, F-5 F-6 have been sold by all the other remaining shareholders except defendant no 10 & 11. It has been also confirmed by defendant no 11 that one of the shop i.e. shop no F-7 is sold by all the shareholders including defendant no 10 & 11. it has further been confirmed that only the shop bearing no F-3 is under the ownership of all the parties to the present suit.

32. The formulas of partition given by defendant no 11 also confirms the fact that the partition of the suit property by metes and bounds is not possible since L&DO does not permit any further construction upon the second floor/terrace, common areas since the property being a heritage property. Further, the formulas as proposed by defendant no 11 requires the consent of the other parties to

which none of the parties have shown their inclination to accept the same. Keeping in view the aforesaid the proposal as submitted by defendant no 11 merits rejection.

33. Ld counsel for the plaintiff no 2 (a) has also filed a proposal and it is contended by plaintiff no 2(a) appearing in person that he is willing to buy the share of the other parties not only on the ground floor as well as upon the other floors also. It is also submitted by plaintiff no 2(a) appearing in person that there are existing liability of not only NDMC but also on L&DO authorities. Consideration of the aforesaid proposal also confirms the fact that the said proposal is also contingent upon the other parties signifying their assent thereto which inter-se proposals as stated in the aforesaid are not acceptable to any of the parties.

34. Thus, in the considered opinion of the court, the built up area of the suit property is not capable to being partitioned by metes and bounds between the numerous parties and the only way possible is to sell the same by way of public auction. In view of the aforesaid, a final decree of sale is passed qua the built up portion of the suit property between the parties and their shares of the parties in terms of the preliminary decree dt 02.01.1980 for the sake of convenience are crystallized as under:

1. Shri Jag Mohan Gupta (1/4th share)

2A. Shri Nitin Gupta,
son of late Shri Chander Mohan Gupta (1/4th share)

(Shri Chander Mohan Gupta was transposed from Defendant No. 13 to Plaintiff No. 2 vide Order dated 14.10.1987)

(Plaintiff No. 2A was impleaded vide Order dated 26.05.2015) Plaintiffs

Versus

1. Shri Girdhari Lal Jain (Since deceased),
son of late Shri Phool Chand Jain
(D.O.D.: 10.08.1982)

[In terms of Preliminary Decree, holds 1/18th share in the Property(ies), and is being represented by Defendant Nos. 1A(i) to (iii), 1B(i) to (iii), 1C(A) to (D), 1D and 1E]

Through:

1A. Smt. Madam Kumari Jain (Since deceased),
wife of late Shri Girdhari Lal Jain
(D.O.D.: 26.10.2000)

Through:

1A(i). Smt. Subhash Jain (since deceased),
daughter of late Shri Girdhari Lal Jain

Through:

Shri Shashank Jain, (1/126th share)

1A(ii). Smt. Radha Garg (1/126th share)
daughter of late Shri Girdhari Lal Jain,

1A(iii). Smt. Indu Aggarwal, **(1/126th share)**
daughter of late Shri Girdhari Lal Jain,

1B. Shri Bipin Chand Jain (since deceased),
son of late Shri Girdhari Lal Jain
(D.O.D.: 10.06.2018)

Through:

1B(i). Shri Manu@ Manu Jain, **(1/378th share)**
son of late Shri Bipin Chand Jain,

1B(ii). Smt. Alka Jain,**(1/378th share)**
daughter of late Shri Bipin Chand Jain,

1B(iii). Smt. Divya Jain,**(1/378th share)**
daughter of late Shri Bipin Chand Jain,

1C. Shri Devender Chander Jain (since deceased),
son of late Shri Girdhari Lal Jain
(D.O.D.: 19.01.2018)

Through:

1C(A). Smt. Bina Jain (wife); **(1/504th share)**
1C(B). Shri Rajeev Jain (son); **(1/504th share)**
1C(C). Shri Nitin Jain (son); and **(1/504th share)**
1C(D). Smt. Neeti Jatia (daughter) **(1/504th share)**

1D. Shri Sharat Chand Jain, **(1/126th share)**
son of late Shri Girdhari Lal Jain,

1E. Shri Ajay Kumar Jain, **(1/126th share)**

son of late Shri Girdhari Lal Jain,

2. Shri Bimal Pershad Jain (since deceased),
son of late Shri Phool Chand Jain
(D.O.D.: 03.08.1991)

[In terms of Preliminary Decree, holds 1/18th share in the Property(ies), and is being represented by Defendant Nos. 2A to 2D]

Through:

- 2A. Shri Arun Kumar Jain, **(1/72th share)**
son of late Shri Bimal Pershad Jain,
 - 2B. Shri Tarun Kumar Jain,**(1/72th share)**
son of late Shri Bimal Pershad Jain,
 - 2C. Smt. Manju Jain, **(1/72th share)**
daughter of late Shri Bimal Pershad Jain,
 - 2D. Smt. Anju Jain, **(1/72th share)**
daughter of late Shri Bimal Pershad Jain,
3. Shri Trilok Chand Jain (since deceased),
son of late Shri Phool Chand Jain
(D.O.D.: 08.03.1991)

[In terms of Preliminary Decree, holds, 1/18th share in the Property(ies), and is being represented by Defendant Nos. 3B to 3D]

Through:

- 3A. Smt. Sarojini Jain (since deceased),
wife of late Shri Trilok Chand Jain
(D.O.D.: 08.09.1999)

Through:

3B. Shri Dinesh Kumar Jain, **(1/54th share)**
son of late Shri Trilok Chand Jain,

3C. Shri Rakesh Kumar Jain (since deceased),
son of late Shri Trilok Chand Jain,

Through:

3C(i) Meena Jain, **(1/162th share)**
wife of late Shri Rakesh Kumar Jain,

3C(ii) Atulya Jain, **(1/162th share)**
son of late Shri Rakesh Kumar Jain,

3C(iii) Archana Jain, **(1/162th share)**
daughter of late Shri Rakesh Kumar Jain,

3D. Smt. Rekha Rathi, **(1/54th share)**
daughter of late Shri Trilok Chand Jain

4. Shri Virender Kumar Jain (since deceased),
son of late Shri Ishri Pershad Jain
(D.O.D: 28.03.2021)

[In terms of Preliminary Decree, holds 1/12th share in the Property(ies), and is being represented by Defendant Nos. 4A to 4C]

4A. Smt. Poonam Jain, **(1/36th share)**
daughter of late Shri Virender Kumar Jain,

4B. Smt. Shivani, **(1/36th share)**
daughter of late Shri Virender Kumar Jain,

4C. Mr. Puneet Jain, **(1/36th share)**
son of late Shri Virender Kumar Jain,

5. **Given up vide Preliminary Decree**

6. Shri Sanjeev Kumar Jain (since deceased),
son of late Shri Sher Singh Jain
(D.O.D.: 15.12.2017)

[In terms of Preliminary Decree, holds 1/12th share in the Property(ies), and is being represented by Defendant Nos. 6A to 6D]

Through:

- 6A. Smt. Bela Jain (wife) **(1/48th share)**
6B. Shri Samir Jain (son) **(1/48th share)**
6C. Shri Siddharth Jain (son) **(1/48th share)**
6D. Smt. Sarika Mundhra (daughter) **(1/48th share)**

7. **Given up vide Preliminary Decree**

8. **Given up vide Preliminary Decree**

9. **Deleted vide Order dated 14.04.1978**

[In terms of Preliminary Decree, Estate of late Shri Nihal Chand Jain holds 1/12th share in the Property(ies), and is being represented by Defendant Nos. 10A to 10D and 11(i) to 11(iv)]

10. Shri Vikram Kumar Jain (since deceased),
son of late Shri Nihal Chand Jain
(D.O.D.: 28.12.2010)

Through:

- 10A. Smt. Saroj Jain, **(1/48th share)**
wife of late Shri Vikarm Kumar Jain,

10B. Shri Ashok Jain, **(1/48th share)**
son of late Shri Vikram Kumar Jain,

10C. Smt. Amita Jain, **(1/48th share)**
daughter of late Shri Vikram Kumar Jain,

10D. Shri Vardhman Jain, **(1/48th share)**
son of late Shri Vikram Kumar Jain,

11. Shri Chikram Kumar Jain (since deceased),
son of late Shri Nihal Chand Jain
(D.O.D.: 27.05.2000)

Through:

11(i). Smt. Saroj Jain (since deceased) (D.O.D.: 12.05.2021)
(deleted vide Order dated 29th November 2025)

11(ii). Shri Sanjay Jain, **(1/24th share)**
son of late Shri Chikram Kumar Jain,
D-386, Sector-10,
Noida, Uttar Pradesh - 201 301.

11(iii). Shri Rajeev Jain **(1/24th share)**
son of late Shri Chikram Kumar Jain,

11(iv). Smt. Neelima Jain **(deleted vide Order dated 29th November 2025)**

(Defendant No. 11(i) to 11(iv) impleaded vide Order dated 18.04.2001)

(Defendant Nos. 11(ii) & 11(iii) are represented through Adv. Mayank Bansal)

11A. **Deleted vide Order dated 14.07.2025**

11A(i). **Deleted vide Order dated 14.07.2025**

11A(ii). **Deleted vide Order dated 14.07.2025**

11A(iii). **Deleted vide Order dated 14.07.2025**

11A(iv). **Deleted vide Order dated 14.07.2025**

11A(v). **Deleted vide Order dated 14.07.2025**

- 11A(vi). Deleted vide Order dated 14.07.2025
- 11A(vii). Deleted vide Order dated 14.07.2025
- 11A(viii). Deleted vide Order dated 14.07.2025
- 11A(ix). Deleted vide Order dated 14.07.2025
- 11B. Deleted vide Order dated 14.07.2025
- 11C. Deleted vide Order dated 14.07.2025
- 11D. Deleted vide Order dated 14.07.2025
- 12. Deleted vide Order dated 14.04.1978
- 13. Transposed as Plaintiff No. 2 vide Order dated 14.10.1987
- 14. Given up vide Preliminary Decree
- 15. Given up vide Preliminary Decree
- 16. Given up vide Preliminary Decree
- 17. Given up vide Preliminary Decree

Defendants

35. Accordingly, considering the facts & circumstances of the present case, the following final order is being passed :

FINAL ORDER

36. (A) The built up portions of the suit property comprising of ground floor and more particularly comprising of shops nos F-1, F-2, F-3, F-4, F-5 & F-6, first floor and the terrace floor bearing Plot No 1, Block F, Cannought Place

shall be sold out in auction and the auction amount, after deducting necessary expenses, shall be distributed to the parties, as per their respective shares as mentioned in detail in the pedigree table/as per the share of the parties stated in detail in the foregoing paras in terms of preliminary judgment and decree dated 02.01.1980. The parties are, however, at liberty to invoke Section 3 of the Partition Act at the time of execution of the Final Decree. Keeping in view the fact that the court has given the parties the liberty to invoke Section 3 of the Partition Act the parties shall be free to invoke the said section during the execution proceedings. The executing court shall in the absence of the parties succeeding in purchasing the share of other parties in accordance Section 3 of the Partition Act, shall proceed to auction the built up portion of the suit property by way of public sale. However, it has been stated by the parties that a suit of specific performance is pending before Hon'ble High Court of Delhi with respect to the unbuilt portion of the suit property, the present order of auction/sale with respect to the unbuilt portion shall be subject to the outcome of the said suit.

(B) The Final decree in this case is required to be engrossed upon non-judicial papers, as an order of sale or an order under Section 3 of the Partition Act in a partition suit passed under Section 8 of the Partition Act is an instrument of Partition under Section 2(15) of the Stamp Act and requires to be stamped in accordance with Article 45 of the Schedule thereof. The parties are

directed to place on record the non judicial stamp papers of requisite amount, as per Article 45, in accordance with their shares.

(C) If one party or more than one party fails to deposit the non judicial stamp papers of their respective shares, then the other party(s) is/are at liberty to file the non judicial stamp paper of the value of the defaulting party and the amount so spent by such party(s) shall be recoverable as a cost and the auction amount of the defaulting party(s) shall be reduced accordingly against the said cost and shall be paid to the party who had borne the expenses of defaulting party.

37. The Final Decree be drawn accordingly subject to filing of valuation report with respect to the suit property and upon payment of requisite stamp duty.

38. File be consigned to record room after due compliance.

Announced in the open court
on **26.05.2026**.

(Sachin Sood)
DJ-01 (Central)
THC, Delhi.