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

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**Judgment pronounced on: 01.07.2026**

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**W.P.(C) 14448/2025, CM APPL. 59200/2025**

**BHUPENDRA KUMAR SOOD & ANR. ....Petitioners**

Through: Mr. B.B. Sawhney (Sr. Adv) along  
with Mr. Nitish Ahuja, Mr. Manik  
Sood, Advs. along with Mr. B.K.  
Sood Petition- In Person.

versus

**GOVERNMENT OF NCT OF DELHI THOURGH CHIEF  
SECRETARY 3RD LEVEL DELHI SECRETARIAT I.P. ESTATE,  
NEW DELHI 110002 & ORS. ....Respondents**

Through: Mr. Tushar Sannu, Mr. Parvin Bansal,  
Advs. for GNCTD.

**CORAM:**

**HON'BLE MR. JUSTICE SACHIN DATTA**

### **JUDGMENT**

1. The petitioners have filed the present writ petition impugning the Order dated 02.09.2025 passed by the respondent no. 2, i.e., the Collector of Stamps.
2. The background of the matter is that the petitioners are the lawful owners of property bearing No. E-76, Anand Niketan, New Delhi, which stands duly mutated in their names pursuant to a memorandum of family settlement dated 19.06.2000.
3. The said property originally belonged to Late Shri P.K. Sood, father of the petitioners, who, during his lifetime, settled various properties among his children. Under the aforementioned memorandum of family settlement, other siblings of the petitioners, i.e., Mr. Shekhar Sood and Mrs. Neeru



Duggal, were allotted separate properties, whereas the subject property came to be exclusively allotted to the petitioners in equal shares.

4. It is submitted by the petitioners that in terms of the family settlement, it was agreed that the existing structure on the said property would be demolished and the property redeveloped, with each petitioner being entitled to an equal share in the reconstructed property. Accordingly, the property was demolished by the end of 2022, and construction commenced in January 2023 pursuant to the sanction of the building plans. However, during the course of construction, disputes arose between the petitioners with respect to the manner of enjoyment and demarcation of their respective shares in the redeveloped property.

5. In order to amicably resolve the disputes, petitioner no. 1 invoked pre-litigation mediation under Section 61 of the Arbitration and Conciliation Act, 1996, by approaching the Delhi High Court Mediation and Conciliation Centre on 07.08.2023. Pursuant thereto, a Conciliator was appointed. Consequently, the disputes between the parties were amicably resolved, culminating in a Conciliated Settlement Agreement dated 03.10.2023.

6. It is submitted by the petitioners that the said settlement agreement had the same status and effect as an arbitral award under Section 74 of the Arbitration and Conciliation Act, 1996.

7. Accordingly, the Conciliated Settlement, treated as a deemed arbitral award, was presented for registration before the office of the Sub-Registrar-VIIA on 16.10.2023.

8. It is pointed that initially deficiency was pointed out regarding non-submission of Form A, the same was duly rectified by the petitioners. It is submitted that the petitioners also paid stamp duty treating the document as



an award under Article 12 of the Indian Stamp Act, at the applicable rate of 0.1% of the value of the land, amounting to Rs. 1,30,000/-, and re-presented the document for registration.

9. Subsequently, it is submitted that the Sub-Registrar, referred the instrument to the Collector of Stamps under Section 38 of the Indian Stamp Act for determination of proper stamp duty. Thereafter, the petitioners received a notice dated 19.01.2024 from the office of the Collector of Stamps calling upon them to explain as to why deficient stamp duty and penalty should not be imposed under Section 40 of the Act. The petitioner no. 1 appeared before the authority. Subsequently, the petitioners filed written submissions along with relevant judicial precedents in support of their case.

10. Thereafter, the Office of the Tehsildar issued notice to the petitioners vide communication dated 24.04.2024 calling upon them to furnish various documents. It is submitted that the petitioners *vide* a reply dated 29.04.2024 furnished requisite documents including valuation reports.

11. However, no order was passed by the Collector of Stamps for a considerable period. The petitioners submitted repeated representations in September and December 2024 requesting expeditious disposal of the matter, but no action was taken.

12. Aggrieved by the inordinate delay and inaction on the part of the authorities, the petitioners approached this Court by way of W.P.(C) No. 12617 of 2024. This Court, vide order dated 25.08.2025, directed the respondent no. 2 to decide the matter within a specified timeframe.

13. Pursuant to the aforesaid directions, respondent no. 2 passed the impugned order dated 02.09.2025, whereby the Conciliated Settlement



Agreement was treated as a partition deed rather than an arbitral award. On this basis, the respondent raised a demand of Rs. 14,75,035/- towards alleged deficient stamp duty and penalty, and further directed payment of registration charges at the rate of 1%, within 15 days, failing which recovery proceedings were threatened under Section 48 of the Indian Stamp Act, 1899 as arrears of land revenue. The impugned order dated 02.09.2025 is reproduced as under –

**ORDER**

An instrument styled as "Award" executed between Sh. Bhupendra Kumar Sood (First Party) and Sh. Yogendra Sood (Second Party) in respect of Property No. E-76, Anand Niketan, New Delhi and the same was presented before the Sub Registrar-VIIA, Sarojini Nagar, New Delhi for registration on 18.10.2024 vide temporary No. 8316 and the same was impounded and forwarded to the undersigned under the Indian Stamp Act, 1899, being deficient in Stamp Duty.

By this Order, I shall dispose off the proceedings under the Stamp Act, 1899 conducted by this office with regard to the aforementioned instrument being deficient in stamp duty.

The instrument was impounded under section 33 of the Act regarding deficiency of stamp duty. Notice was issued to the executants to appear before the undersigned in person or through authorized representative/pleader on 30.01.2024 along with explanation as to why the deficient stamp duty should not be charged and the penalty may not be imposed under section 40 of the Indian Stamp Act, 1899.

Sh. Bhupendra Kumar Sood, First Party was appeared on 30.01.2024. However, due to Election Training, hearing could not be held and the NDOH fixed for 13.02.2024. Further, on the NDOH i.e. 13.02.2024, Sh. Bhupendra Kumar Sood, First Party submitted his written reply before the undersigned wherein he submitted that:-

"Both the parties had settled their rights orally earlier in respect of the property bearing no. E-76, Anand Niketan, New Delhi-110021, inherited by them by the way of Family Settlement. However, upon disputes occurring subsequently, he approached Delhi High Court Mediation Centre for Pre-litigation conciliation to resolve disputes so as to avoid unnecessary and costly litigation."

The proceedings under the conciliator continued under Section 72 of the Arbitration and Conciliation Act under Section 73, the Settlement arrived at earlier was reiterated and drawn up by the conciliator, and by virtue of section 73 (3), the said Settlement so arrived at, was final and binding between the parties and persons claiming under them. In the present case, the said settlement under the aegis of the Delhi High Court Mediation and Conciliation Centre, was initiated on 07.08.2023 and culminated in the Settlement in mediation Petition No. 319 of 2023 on 03.10.2023 and was signed by the Conciliator and by the parties, in token of they having accepted the same.



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It is submitted by Sh. B.K. Sood, First Party that the conciliation settlement so arrived at, by virtue of Section 74 of the Arbitration and Conciliation Act, 1996, has the same status and effect, as if it is an Arbitral Award on the agreed terms on the substance of disputes rendered by an Arbitral Tribunal under Section 30 of the Arbitration and Conciliation Act, 1996, By virtue of Section 30 (4), the Arbitral Award on the terms agreed shall have the same status and effect as any other Arbitral Award on the substance of disputes. By virtue of Section 35, an Arbitral Award shall be final and binding on the parties and person claiming under them respectively. By virtue of Section 36 of the Arbitration and Conciliation Act, 1996, when the time for filing application for setting aside the Arbitral Award has expired (to be made within 03 months from the date of award), such award shall be enforced in accordance within the provision of Code of Civil Procedure, as if it was a decree of the court, Consequently, the present settlement so arrived at on 03.10.2024 is an Award.

The Award was made on 03.10.2024 and both the parties have accepted the same and in token of the same, have signed the said Award, the said Award was presented for Registration. Since the document so submitted is an Award only, it would be liable for Stamp Duty at 0.1% of the subject matter of the Award under Article 12 of Stamp Act. **Subject matter of the Award is the property no. E-76, Anand Niketan, New Delhi, which is owned by the parties to the Settlement in their exclusive rights in equal share.** The stamp duty of 0.1% has already been paid, while presenting the Award for Registration and as a matter of fact, the stamp duty paid is more than the stamp duty payable on the market value of the entire property calculated at the rate of Rs. 7,74,000/- per Sq. Mtr. For the plot admeasuring 165.38 Sq. Mtr. Consequently, the Stamp Duty already paid is not deficient and document is required to be released, after registration of the same, which is pending for Registration since 16.10.2023."

On the perusal of the said instrument, it is revealed that the Award is relating to the partition of the property as referred in the Award and the value of the property is not mentioned in the said instrument. Further, the content of said instrument is of a Partition Deed under the Article-45 (C) in the Schedule-IA of the Indian Stamp Act, 1899 which says that: -

"Where final order for effecting a partition passed by any revenue authority or any Civil Court, or an award an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed the duty, on such instrument is required to be paid."

**As per article 12** in the Schedule-IA of the Indian Stamp Act, 1899 which says that: "Any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit."



As per the Section 2(15) of the Indian Stamp Act, 1899 which says <sup>54</sup> the definition of the partition that "Instrument of Partition" means any instrument where by co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition:"

As per the Section 29(g) of the Indian Stamp Act, 1899, duties by whom payable in the case of an instrument of partition says that "by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs."

In the definition, the words used in connection with an award of arbitrators are- "directing a partition", and not "effecting a partition"-which is the wording used in the definition in connection with a final order of a Revenue authority or Civil Court. The reason is, that arbitrators have no power to do more than to direct a partition. Therefore, even if the arbitrators go further and define the manner in which the partition should be made, it has no more binding force, and for the purposes of Stamp, it remains an instrument of partition.

As per the said Instrument which was impounded, the First Party and the Second Party both are the brothers, and they are the parties to a Memorandum of family Settlement that was documented in writing on or around 19 June 2000 between all the family members of Lt. Sh. P.K. Sood (Family Settlement) and in pursuant to the said Family Settlement, the parties to this conciliated settlement agreement acquired rights/shares in the said property as mentioned below:-

- a) The First party become the absolute owner of the First Floor and Second Floor of the Anand Niketan Property, with half undivided share in the plot underneath;
- b) The Second Party became the absolute owner of the ground floor and third floor rights of the Anand Niketan Property, with half undivided share in the plot underneath; and
- c) No other family members of Late Sh. P.K. Sood has any right in the Anand Niketan Property.

Upon the perusal of the Arbitral Award in r/o Anand Niketan Property, it is revealed that the present matter is dispute between two brothers for the allocation of floors and arrangements. Further, prior from this both had executed family settlement on however; after the dispute arose among they invoked to Delhi High Court Mediation Centre to settle their dispute. It is emphasize that arbitration is commonly used in civil disputes. It does not intervene in criminal matters. The parties must include a clause in their agreement. When a dispute arises, the parties must appoint an arbitral tribunal to hear their claims, and based on the disputes over those claims,



the arbitral tribunal issues a verdict, which is commonly known as an award. Conciliation is preferred in a variety of disputes, including those arising from employment, family, commercial, and community disputes. The process of conciliation is informal, flexible, and confidential. It is preferred because it helps resolve disputes quickly, and the whole procedure is much less expensive than traditional court proceedings. The parties are able to retain control over the outcomes and are able to customize the conciliation process to their specific needs and interests. The parties reach a settlement agreement through conciliation, it is usually written down and signed by both parties, after which it becomes legally binding. The significant advantages offered by conciliation include the flexibility and informality of the process, the confidentiality of the proceedings, and the ability of the parties to reach a mutually acceptable resolution.

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In the instant case both parties had never appointed arbitrator but went to mediation centre to settle their dispute. Hence, this is cannot be considered as Award but the same is considered as Conciliated Agreement as both parties put signature on the agreement as mentioned above. On the other hand, the contents of the agreement draw attention to a partition deed.

As per notification No. F.1(953)/Regn. Br./Div. Com./HQ/2014/5943 dated: 22.09.2014 and as Article-45 in the Schedule-IA of the Indian Stamp Act, 1899 the calculation of the circle value and accordingly the stamp duty is as under:-

		Calculation of the First Party Share	Calculation of the Second Party Share
1	Name of the Colony	Anand Niketan, New Delhi	Anand Niketan, New Delhi
2	Category	A	A
3	Total area of land	197.84 SqYds (165.4140 Sq. Mtrs.)	197.84 SqYds (165.4140 Sq. Mtrs.)
4	Plinth/Covered Total Area	2805 Sq. Ft. (260.5845 Sq. Mtr.)	2805 Sq. Ft. (260.5845 Sq. Mtr.)
5	Total Number of Floor	4 (Ground Floor, First Floor, Second Floor and Third Floor)	4 (Ground Floor, First Floor, Second Floor and Third Floor)
6	Nos. of Floors allocated to the Party	2 (i.e. First Floor and Second Floor)	2 (i.e. Ground Floor and Third Floor)
7	area of undivided Land Share under Partitioned for two Floors	82.7070 Sq. Mtrs.	82.7070 Sq. Mtrs.
8	Minimum Circle rate of land	774000 per SqMtr	774000 per SqMtr



		Calculation of the First Party Share	Calculation of the Second Party Share
9	Minimum circle value of land under partitioned of the Party Share (7 X 8)	64015218	64015218
10	Covered area under partitioned share of the Party	130.29225	130.29225
11	Minimum Construction rate	21960	21960
12	Age Factor	1	1
13	Minimum cost of construction as per circle rate (10 X 11 X 12)	2861217.81	2861217.81
14	Minimum Circle value of the share partitioned in favour of the Party (9 + 13)	66876435.81	66876435.81
15	Stamp duty @2%	₹ 1337528.716	₹ 1337528.716

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The contents of above said instrument is of a Partition Deed under Article-45 in the Schedule-IA of the Indian Stamp Act, 1899 and liable to pay the deficient stamp duty. Further, also liable to pay the penalty u/s 40 of the Indian Stamp Act, 1899 in the interest of Government Revenue. I have considered the above said facts and supporting documents, 20% of stamp duty ₹ 2,67,506/- is imposed u/s 40 of the Indian Stamp Act, 1899.

Keeping in view of the facts and circumstances stated above, the applicants/executants have already paid the stamp duty of ₹ 1,30,000/- at the time of the registration of the said instrument (i.e. award) vide e-Stamp Paper No. IN-DL82625898775455V dated 17.10.2023. Now, therefore, the applicants/executants are directed to pay the deficient / remaining stamp duty alongwith penalty total amounting to ₹ 14,75,035/- (₹ Fourteen Lakhs Seventy Five Thousand & thirty Five Only) (as deficient/remaining stamp duty of ₹ 12,07,529/- and penalty of ₹ 2,67,506/- (20% of stamp duty i.e. ₹ 13,75,289). Further, the applicant is also directed to pay the registration fee i.e. 1% accordingly within 15 days of issue of this order, failing which, the amount shall be recovered as arrear of land revenue under Section-48 of the Indian Stamp Act, 1899.



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14. Being aggrieved of the same the petitioners have now approached this Court seeking quashing of the impugned order.

15. The case of the petitioners is that the Collector proceeded on two misconceptions.

16. Firstly, it is submitted that the Collector erroneously concluded that the instrument in question is, in substance, a “partition deed” within the meaning of Section 2(15) of the Indian Stamp Act, 1899. This finding proceeds on a misconception/ misunderstanding of the essential ingredients of a partition. The *sine qua non* of an “instrument of partition” is the division of property held jointly or in common by co-owners into separate and exclusive ownership in severalty. In the present case, however, such an essential element is absent. The petitioners were already owners in severalty of defined portions of the property pursuant to the Memorandum of Family Settlement. The Conciliated Settlement does not effect any division of jointly held property; rather, it merely records a demarcation of pre-existing ownership rights.

17. Specific reliance has been placed by the petitioners on *Jinesh Jain v. Amit Jain & Ors.* AIR 2025 (Del) 136.

18. Secondly, it is submitted that the Collector has erred in holding that the document cannot be treated as an arbitral award on the ground that no arbitral tribunal was constituted. This finding overlooks the express statutory mandate of Section 74 of the Arbitration and Conciliation Act, 1996, which provides that a settlement agreement arrived at in the course of conciliation proceedings shall have the same status and effect as an arbitral award on agreed terms under Section 30.

19. It is submitted that the legal position remains unaffected by the



enactment of the Mediation Act, 2023. Although the said Act contemplates eventual deletion of certain provisions of the Arbitration and Conciliation Act, including Sections 61 to 81, the relevant provisions have not yet been brought into force. As on date, Section 74 continues to operate with full force, and the statutory fiction contained therein remains binding.

20. Thus the case of the petitioners is that the instrument in question is liable to be stamped as an arbitral award under Article 12 of the Indian Stamp Act.

21. While advertng to the contentions advanced by the petitioners, the respondents have submitted as follows:

- a. It is submitted that Section 2 (15) of Stamp Act, 1899 defines an instrument of partition to mean any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting partition passed by any revenue authority or any civil court and an award directing a partition. The liability to pay stamp in terms of Article 45 of Schedule I to the Indian Stamp Act, 1899 arises when the instrument in question fell within the definition of “instrument of partition” as given in Section 2 (15) of the said Act. It is urged that any instrument whereby co-owners of any property divide or agree to divide such property in severalty would be an instrument of partition. It is submitted that it is not merely the instrument whereby the property is in fact divided by co-owners, but also an instrument whereby the said co-owners agree to divide the property in severalty.
- b. It is further submitted that Article 45 of Schedule I to the Stamp Act prescribes the appropriate stamp duty for an instrument of partition as



defined in Section 2 (15). The said Article, as applicable to Delhi, also provides that where a final order for effecting a partition passed by any revenue authority or any civil court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed ten rupees. It is submitted that this is also indicative of the fact that an instrument which by itself does not affect a partition is also liable to be stamped in accordance with Article 45 and in such an eventuality, a subsequent instrument which brings about the partition would not be required to be stamped twice over with the same amount of stamp duty but the stamp duty on the second instrument would be limited to ten rupees. It is emphasised that the scheme of the provisions appears to be that where an instrument records an agreement to divide property, the same has to be stamped in the first instance in accordance with Section 2 (15) read with Article 45 to Schedule I of the Stamp Act, 1899. Since such an instrument is required to be followed up by another instrument where the property is actually divided in severalty, the legislature has made it clear that on the second instrument, the stamp duty would be limited to only Rs 10/-.

- c. It is contended that a plain reading of the provisions of the Stamp Act do indicate that when there are two instruments, one which records an agreement to divide property followed by the other which actually brings about the division of such property, both such instruments would fall within the definition of Section 2 (15) of the said Act. Reliance has been placed on *Jitender Mohan Malik v Ravi Bhushan Malik*, ILR (2009) I



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- d. It is submitted that the petitioner no. 1 by way of Application dated 07.08.2023 invoked Mediation with respect to, “division of the shares in the property inherited by both”. It is submitted that there existed no deed of partition in past and instead as averred by the petitioners, there existed a ‘Memorandum of Family Settlement’ dated 19.06.2000. The Conciliation Agreement divides the share of petitioners in E-78, Anand Niketan, New Delhi-110021. Clause 4 of the conciliation agreement describes floor allocation, whereby the Basement and Terrace has to be divided equally among petitioners, while the Second Floor and Third Floor vests exclusively with petitioner no. 1 and Upper Ground Floor and First Floor exclusively vests in petitioner No. 2.
- e. The petitioners become the exclusive owners with equal undivided share in the land beneath. Further, Clause 6 of the Agreement dated 03.10.2023 gives superintendence to the conciliation Agreement dated 03.10.2023 over the ‘Memorandum of Family Settlement’ dated 19.06.2000 in case of any conflict and inconsistency between any term of Family Settlement and Conciliation Agreement. It emphasised that the Conciliation Agreement reads down the ‘Memorandum of Family Settlement’ dated 19.06.2000 in so far as property in question is concerned.
- f. Thus, the case of the respondents is that the Agreement though bears a title as ‘Conciliation Agreement’, the same is an Instrument of Partition clothed as Conciliation Agreement.
- g. As regards the second issue, whether the Conciliation Agreement can be treated as an arbitral award under Sections 73 and 74 of the Arbitration and Conciliation Act, 1996, it is submitted that under Section 74 of the



Arbitration and Conciliation Act, a settlement agreement reached during conciliation proceedings attains the same status and effect as an arbitral award by virtue of legal fiction. However, it is submitted that this statutory recognition does not transform the settlement agreement into an arbitral award; it continues to remain a contractual agreement, merely imbued with the status and enforceability of an award under the Act. Consequently, since the document in the present case constitutes an instrument of partition, it is liable to stamp duty under Article 45 of Schedule 1A of the Indian Stamp Act, 1899, along with the applicable penalty under Section 40 of the said Act.

- h. Reliance has been placed on *Anuradha SA Investments LLC v. Parsvnath Developers Limited*, 2017 SCC OnLine Del 7970.

### **ANALYSIS AND CONCLUSION**

22. The principal questions that arise for consideration in the present matter are –

- a. whether the Conciliation Agreement dated 03.10.2023 constitutes an “instrument of partition” within the meaning of Section 2(15) of the Indian Stamp Act, 1899; and if not
- b. whether the said agreement can be treated as an arbitral award by virtue of Sections 73 and 74 of the Arbitration and Conciliation Act, 1996 so as to attract stamp duty applicable to an award.

23. The controversy, therefore, centres on the true nature and legal character of the instrument for the purposes of stamp duty.

24. In the impugned order, the respondent no. 2 has concluded that the contents of the instrument are in the nature of a partition deed under Article



45 of Schedule IA of the Stamp Act and has, on that basis, directed payment of deficient stamp duty along with penalty under Section 40.

25. The correctness of this conclusion necessarily depends upon whether the document satisfies the statutory definition of an “instrument of partition” under Section 2(15) of the Indian Stamp Act, 1899, or whether it merely records and adjusts pre-existing rights.

26. At this stage, it is apposite to examine the definition contained in Section 2(15), which provides as under –

*“(15) “Instrument of partition”.— “instrument of partition” means any instrument where by co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition”*

27. A plain reading of the provision makes it clear that the essence of partition lies in the division of property held jointly or in common into separate and exclusive ownership in severalty. From this definition, certain essential ingredients emerge: first, there must exist co-ownership in respect of the property, i.e., the parties must hold a joint or undivided interest; second, the property must constitute a common or undivided estate capable of division; third, the instrument must effect or record an agreement to effect such division in severalty, resulting in the creation of exclusive rights; and fourth, the instrument itself must be the operative source of such division, and not merely a record of a pre-existing arrangement.

28. In ***Shub Karan Bubna v. Sita Saran Bubna And Others***, (2009) 9 SCC 689, the Supreme Court has observed as under –

*“5. “Partition” is a redistribution or adjustment of pre-existing rights, among co-owners/coparceners, resulting in a division of lands or other properties jointly held by them into different lots or portions and delivery thereof to the respective allottees. The effect of such division is that the*



*joint ownership is terminated and the respective shares vest in them in severalty.”*

29. In ***Indu Singh and Anr. v. Prem Chaudhary and Ors.*** 2018 SCC OnLine Del 8951, a three judge bench of this Court has observed as under -

*“60. Clearly, to “partition” means “to divide”; it is an act of cleaving or splitting what is one into more than one whereupon each separated part vests in different person.”*

30. Applying the aforesaid principles to the facts of the present case, it is evident that the essential requirement of co-ownership of an undivided estate is absent.

31. It is significant to note that after the Family Settlement Agreement of 2000, the Anand Niketan property was never held as a single undivided asset by the parties. Each petitioner held exclusive rights in specified portions of the property. The relevant portion of the Family Settlement Agreement of 2000 is reproduced as under –

*“1. Shri. P.K. Sood, son of late Shri. P.N.Sood, resident of E-76, Anand Niketan, New Delhi-110021. (hereinafter called “the First Party” which expression shall wherever the context admits mean and include his heirs, successors and assigns).*

*2. Smt. Krishna Devi Sood, wife of Shri. P.K. Sood, resident of E-76, Anand Niketan, New Delhi-110021 (hereinafter called “the second party” which expression shall wherever the context admits mean and include her heirs successors and assigns).*

*3. Smt. Neeru Duggal, wife of Shri. M.L. Duggal, resident of 161, Jeevan Nagar, New Delhi-110014 (hereinafter called “the Third Party” which expression shall wherever the contest admits mean and include her heirs, successors and assigns).*

*4. Shri. B.K. Sood, son of Shri. P.K. Sood, resident of E-76, Anand Niketan, New Delhi- 110021 (hereinafter called “The Fourth Party” which expression shall wherever the contest permits mean and include his heirs, successors and assigns).*

*5. Shri Yogendra Sood, son of Shri P.K. Sood, resident of 7C, Pocket B, Siddhartha Extension, New Delhi- 1100014 (hereinafter called “the*



*Fifth Party” which expression shall wherever the context permits mean and include his heirs, successors and assigns.).*

6. *Shri. Shekhar Sood, son of Shri. P.K. Sood, resident of Bundla, Mauja Aima, Baikunth, Palampur District: Kangra, Himachal Pradesh (hereinafter called “the Sixth Party” which expression shall wherever the context permits mean and include his heirs, successors and assigns.)*

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*(iii) Pursuant to and in terms of the Oral Arrangement/Settlement, the Fourth Party constructed the first and second floors of the Anand Niketan property from out of his own personal funds during 1995-96. The First and Second Floors stand allotted/allocated exclusively to and in favour of the Fourth Party together with half undivided share in the plot. The rights of use and enjoyment in Ground Floor with half undivided share in the plot stands allotted/allocated to and vests in favour of the First and second parties exclusively during their lifetime and after the demise of either of them, to the survivor during his/her life time as the case may be. They are and shall continue to use and enjoy the said portion of property during their respective life times except that the same shall not be mortgaged or sold or encumbered in any manner except that same could be leased and lease amount so accrued would be available to first and second party exclusively, which they shall be entitled to appropriate in any manner they deem fit. However, the Third Floor or its rights could be disposed of by First or second party in the eventuality of either of them requiring substantial amount for their immediate medical need or attention. After the lifetime of both of them, the same as also the third floor/third floor rights shall devolve on and vest exclusively in the fifth party hereto, who would be absolute owner thereof. Pursuant to and in terms of the Oral Arrangement/Settlement, the First party has already applied for conversion of tenure of the plot from leasehold to freehold with funds therefore provided by the fourth and fifth parties hereto in equal proportions. Property tax in respect of the said property has been borne and paid by the parties in whom the title to the respective portions vests for the time being in proportion to the respective portions in their enjoyment. First and second party have a right of residence in the first floor alongwith fourth party during their life time and further have a right of residence at any other property mentioned herein except with the third party. None of the other parties has any right, title or interest, or claim surviving in the said Anand Niketan property or any part thereof, except only that in the event that the fourth party and/or the fifth party effecting sale of their respective portions, such shall make over 10% (Ten Percent) of the sale proceeds to the sixth party hereto.”*



32. The petitioner no. 1 became absolute owner of first and second floors of the property along with half undivided share in the plot. While the parents of the petitioners held only a life interest in ground floor and third floor of the property along with half undivided share in the plot, with remainder rights already vested in the petitioner no. 2. Upon the demise of the parents, those remainder rights matured into full ownership. Therefore, there was no subsisting joint estate requiring division at the time of execution of the Conciliation Agreement in 2023.

33. Even the Conciliation Agreement itself records that pursuant to the Family Settlement dated 19.06.2000, the petitioners had already acquired defined and exclusive rights in respect of the Anand Niketan property. The relevant portion of the Conciliated Agreement is reproduced as under –

AND WHEREAS pursuant to the Family Settlement, the Parties to this Conciliated settlement agreement acquired rights in E-76 Anand Niketan New Delhi 110021 (Anand Niketan Property), such that:

- (i) the First Party became the absolute owner of the First Floor and Second Floor of the Anand Niketan Property, with half undivided share in the plot underneath;
- (ii) the Second Party became the absolute owner of the Ground Floor and Third Floor rights of the Anand Niketan Property, with half undivided share in the plot underneath; and
- (iii) no other family members of Late ShP.K.Sood has any right in the Anand Niketan Property.

34. Thus, the partition of the property, insofar as division of ownership is concerned, stood effectuated as early as in the year 2000.

35. The Conciliation Agreement dated 03.10.2023 does not effect any division of jointly held property. It merely records a re-adjustment and mutual exchange of certain portions between parties who were already



absolute owners of their respective shares. Such an exchange or adjustment between independent owners cannot be equated with a partition of joint property. The document, therefore, does not operate to sever joint ownership, but rather gives effect to pre-existing rights and arrangements. The relevant portion of the Conciliation Agreement dated 03.10.2023 is reproduced as under –

4. Floor Allocation

- a) Although the Parties will continue to comply with the terms and conditions of the Family Settlement, the Parties have agreed to re-allocate the floors allocated to them in terms of the earlier understanding reached between the Parties.
- b) After the existing Anand Niketan Property is demolished and a new / modern structure is built upon the land underneath, the Parties agree that:
  - (i) The new building will comprise of a Basement, Stilt Parking, Ground Floor, First Floor, Second Floor, Third Floor, and Terrace / Rooftop;
  - (ii) The Basement will be constructed in a way that it is divided into two equal portions, one comprising of the front portion and the other the rear portion. The front portion will vest exclusively in favour of the First Party, and the rear portion will vest exclusively in favour of the Second Party. Each Party will have exclusive rights to own, use and occupy their respective portions independently
  - (iii) Each Party will have equal rights over the Stilt Floor including in relation to the car parking spots and servant rooms on that floor. In the Stilt Floor Plan attached to this Conciliated Agreement as Annexure A, there are 4 designated car parking spots (namely P-1, P-2, P-3 and P-4) and 4 servants' room (namely Room 01, Room 02, Room 03 and Room 04). It is agreed that:
    - A) car parking spots P-2 and P-3 together with servant Room 01 and Room 02 will vest exclusively in favour of the First Party; and
    - B) car parking spots P-1 and P-4 together with servant Room 03 and Room 04 will vest exclusively in favour of the Second Party;
  - (iv) The Upper Ground Floor and the First Floor of the new Building will vest exclusively in favour of the Second Party;



(v) The Second Floor and Third Floor of the new Building will vest exclusively in favour of the First Party;

(vi) The Terrace / Rooftop of the new Building, will be developed in a way that is divided into two equal portions, one comprising the front portion facing the road and the other comprising the rear portion facing the back lane. The front portion of the Terrace / Rooftop will vest exclusively in favour of the Second Party, and the rear portion will vest exclusively in favour of the First Party. Although each Party will have exclusive rights to own and occupy their respective portions of the Terrace / Rooftop to the exclusion of the other, endeavours shall be made that the Terrace is enjoyed by both Parties for all practical purposes, and no Party will cause any inconvenience to the other Party; and

(vii) Each Party will continue to own half undivided share in the plot of land underneath the Anand Niketan Property.

36. Thus the Conciliation Agreement does not create such rights for the first time.

37. Arrangements which define or adjust pre-existing rights without effecting a fresh division of joint property do not fall within the scope of Section 2(15).

38. In the present case, the Family Settlement of 19.06.2000 was itself a comprehensive arrangement that effected partition of all family properties, including the Anand Niketan property, and vested exclusive ownership rights in the respective parties. That document alone could be regarded as the instrument effecting partition, if at all.

39. The Conciliation Agreement of 2023, on the other hand, neither creates a fresh partition nor alters the fundamental nature of ownership; it



merely records a consensual adjustment arising out of redevelopment and resolves disputes relating to enjoyment of the property.

40. To treat the 2023 document as a fresh instrument of partition would, in effect, amount to recognizing a second partition of property that had already been partitioned more than two decades earlier. Such an approach is legally untenable, as partition can only operate upon property held jointly and not upon property already held in severalty.

41. In view of the foregoing, it is clear that as on the date of execution of the Conciliation Agreement, there existed no joint or undivided estate between the parties which could be the subject matter of partition. The essential precondition for the application of Section 2(15) is thus not satisfied. The document in question cannot be construed as an “instrument of partition.”

42. Accordingly, the classification of the instrument by the Collector under Article 45 of Schedule IA of the Indian Stamp Act is fundamentally erroneous and unsustainable in law.

43. The second question that arises is whether the said agreement can be treated as an arbitral award by virtue of Sections 73 and 74 of the Arbitration and Conciliation Act, 1996 so as to attract stamp duty applicable to an award.

44. In **Anuradha SA Investments LLC & Anr v. Parsvnath Developers Limited & Ors.** (supra) a Coordinate bench of this Court has observed as under –

*“29. The contention that the Settlement Agreement is insufficiently stamped is unpersuasive. It is well settled that the stamp duty is payable on an instrument. In the present case, the instrument is an agreement and not an arbitration award. In terms of Section 74 of the Act, a settlement agreement would have the status and effect “as if it is an arbitral award”;*



*thus by legal fiction, a settlement agreement arrived at during the conciliation proceedings and authenticated by the conciliator has been provided the same status and effect as an arbitral award. In other words, the settlement agreement can be enforced as an arbitral award and it is not necessary for a party to institute fresh proceedings for obtaining a decree in terms thereof. However, it does not mean that the settlement agreement ceases to be an agreement voluntarily entered into between the parties and becomes an arbitral award; it merely has the status and effect of an award under the Act. The settlement agreement continues to be an agreement and would require to be stamped as such. This Court is, respectfully, unable to concur with the view of the Karnataka High Court in *Smt N.S. Geetha v. Sri B. Raghuvver (supra)* that the legal fiction created by Section 74 of the Act, which treats the settlement agreement as if it is an award, would also require the instrument to be stamped as an award and not as a settlement agreement.*

*30. It is well settled that a legal fiction cannot be extended beyond the purpose for which it is created. Section 74 of the Act creates a legal fiction to elevate the status and effect of a settlement agreement under Section 73 to an award. The purpose is clearly to enable enforcement of such agreements as an arbitral award without further adjudicatory process. The legal fiction cannot be extended to other statutes. In *Bengal Immunity Company Limited v. State of Bihar : (1955) 2 SCR 603*, a Constitution Bench of the Supreme Court held that “Legal fictions are created only for some definite purpose.....a legal fiction is to be limited to the purpose for which it was created and should not be extended beyond that legitimate field” (Also see : *K. Prabhakaran v. P. Jayarajan : (2005) 1 SCC 754*.)”*

45. Applying the aforesaid principles, it is evident that although the Conciliation Agreement in the present case may be enforceable as if it were an arbitral award, it does not thereby lose its character as an agreement voluntarily entered into between the parties. The deeming provision contained in Section 74 cannot be extended to the provisions of the Indian Stamp Act so as to require the document to be stamped as an arbitral award.

46. Accordingly, the Conciliation Agreement must be stamped as an agreement and not as an award. It equally cannot be treated as a partition deed for the reasons already discussed. The applicable provision, therefore,



is Article 5 of Schedule IA to the Indian Stamp Act, and the instrument squarely falls within clause (c) thereof. The same reads as under –

*“5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT*

- |   |  |
|---|--|
| <i>(a) if relating to the sale of a bill of exchange</i>  | <i>One rupee for every Rs.10000 or part thereof.</i>   |
| <i>(b) if relating to the sale of a Government Security or share in an incorporated company or other body corporate</i> | <i>One rupee for every Rs. 10000 or part thereof of the value of the security or share subject to maximum of Rs. 1000.</i> |
| <i>(c) if not otherwise provided for</i>  | <i>Fifty rupees”</i>   |

47. In view of the above, the impugned order is unsustainable and is hereby set aside in totality. The competent authority is directed to expeditiously reassess the stamp duty payable on the instrument by treating it as an agreement under Article 5(c) of Schedule IA, and not as a partition deed or an arbitral award.

**SACHIN DATTA, J**

**JULY 1, 2026/sv**