

I-24

CS DJ 776/25

Mamta Sejwal Vs. Suresh Kumar

15.01.2026

Present: Sh. Mirtunjay Singh Narooka, Ld. Counsel for plaintiff
alongwith plaintiff.
Sh. Aman Yadav, Ld. Counsel for defendant no. 2/MCD.
Defendant no. 3 Sh. Hari Singh and defendant no. 6 Smt.
Sujata in person.
None for remaining defendants.

Adjournment has been sought on behalf of defendants to
file WS and reply to the interim application on the ground that their
counsel is not available. Request opposed.

Perusal of record shows that defendant no. 1 and 3 to 10
have been served on 05.10.2025 and they have entered into
appearance through their counsels on 03.11.2025. However, till date
they have neither filed WS nor filed reply to the interim application
despite repeated opportunities being given. Therefore, the application
of plaintiff moved u/O 8 Rule 10 CPC is allowed and defence of
defendants is hereby struck off.

Arguments on application under Order 39 Rule 1 and 2
CPC heard.

Plaintiff has filed suit for partition, declaration and
permanent injunction of the property no. 203, Amrit Puri Village
Garhi, Near Iskon Temple measuring 100 sq. yards consisting of
parking in ground floor, first floor, second floor, third floor, fourth
floor and fifth floor. As per plaintiff the suit property was self acquired
property of her late father Sh. Ramji Lal who died intestate on
28.05.2002 leaving behind four daughters and four sons and class-I
legal heirs. The mother of the parties passed away on 07.08.2002. As
per plaintiff, a settlement took place between parties according to

which half portion of the property was sold and remaining half portion i.e. 100 sq. yard of the suit property was kept remaining and the remaining portion was to be constructed and distributed amongst plaintiff and defendant no. 3 to 10. Defendant no. 1 is stated to be builder of the property.

Now by way of application under Order 39 Rule 1 and 2 CPC, plaintiff has sought interim relief that defendants be restrained from dispossessing the plaintiff and from raising constructions over the property and from creating third party interest in the suit.

Defendant no. 2 has filed status report on 23.12.2025, according to which the suit property consists of ground floor, first floor, second floor, third floor and fourth floor and during inspections by official of defendant no. 2 on 22.12.2025, no construction work was found being carried out nor any building material was found stacked at the site and photographs have been filed. Action u/S 343 and 344 of DMC Act has already been initiated against the suit property.

Remaining defendants have not come forward. In view thereof, the interim stay granted vide order dated 24.12.2025 is made absolute and defendants are hereby restrained from dispossessing the plaintiff and defendants are also restrained from creating third party interest in the property and from carrying out any further construction in the suit property. According, application under Order 39 Rule 1 and 2 CPC stands disposed off.

Defendant no. 2 /MCD is directed to file status report regarding action taken u/S 343 and 344 of DMC Act against the suit property, on NDOH.

Put up for PE on 16.04.2026.

(Prabh Deep Kaur)

District Judge-05 South-East District,
Saket Court, New Delhi/15.01.2026