

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



M DJ No. 251/2023

CNR No. DLCT01-005468 2023

**Shri Daulat Singh Jain
(Since deceased)
Through his LR's**

- 1. Nirmal Kumari Jain
W/o Late Shri Daulat Singh Jain**
- 2. Shri Virender Kumar Jain
S/o Late Shri Daulat Singh Jain**
- 3. Shri Pradeep Kumar Jain
S/o Late Shri Daulat Singh Jain**

**All residents of
House No 5859,
Jogi Wara, Nai Sadak,
Delhi 110006.**

Applicants

VS

**Shri Dalpat Singh Jain
(since deceased)
Through his LR's**

- 1. Smt Prem Devi Jain
W/o Late Sh Dalpat Singh Jain**
- 2. Sh Jinender Jain**

S/o Late Sh Dalpat Singh Jain

3. Smt Savita Jain

D/o Late Sh Dalpat Singh Jain

**All Residents of :
House No 5859,
Jogi Wara, Nai Sadak,
Delhi 110006.**

Respondents

ORDER ON THE APPLICATION SEEKING DIRECTIONS

11.04.2026.

1. The present application is premised upon Clause (g) of the joint application filed under the provision of Order XXIII Rule 3 CPC based upon which consent decree dated 28.03.2002 stands passed between the parties. For a ready reference Clause 2 (g) of the application Order XXIII Rule 3 CPC herein below as follows:

“2(g) In case any party decides to sell his portion in the property, he may do so, but in that case he will have to offer his portion to the other party for the sale consideration and in case the other party does not wish to purchase the same then the portion can be sold to any outsider.”
2. In the present application it is the stand of the applicant/defendant/judgment debtor that since the construction of new staircase in the portion owned by the applicants under the compromise decree dated 28.03.2002 is not feasible, the applicants are unable to use the portion of the property owned by them and are desirous of selling the portion of the property as per the compromise decree dated 28.03.2002 and are accordingly, in exercise of their rights reserved under para 2(g) of

the joint application filed under Order XXIII Rule 3 CPC are offering their rights to the plaintiff/ decree holder/ non-applicant. Perusal of record as well as decision upon the application seeking modification of the compromise decree dated 28.03.2002 goes to show that till date the applicant/defendant/judgment debtor have not constructed separate entrance/separate staircase in terms of the compromise decree dated 28.03.2002 and are in continuous use of the entrance as well as the staircase for accessing their portion on the first floor of the property. Besides the aforesaid the defendants, who have not constructed separate entrance/separate staircase are in occupation of the two shops/ hall/store/ kotha at the ground floor of the suit property and keeping in view the fact that in case a separate staircase/entrance is to be constructed in portion A i.e. the portion falling to the share of applicant/defendant/judgment debtor, the value of the property under the ownership and occupation of the applicant/defendant/judgment debtor would go down substantially since the only access to the suit property is only through the road and at the front portion falling to the share of applicant/defendant/judgment debtor there exists two shops from where such a construction of the entrance/separate staircase is possible. Till date since there has been no construction /existence of the separate entrance, the plaintiff/decreed holder/non-applicant cannot be expected to match the offer as allegedly received by the applicant/defendant/judgment debtor. The occasion to make an offer in terms of Clause 2(g) of the joint application under Order XXIII Rule 3 CPC would only arise once the applicant/defendant/judgment debtor constructs his separate staircase/entrance in terms of the consent decree dated 28.03.2002 since only after the said construction the true value of the portion occupied by the applicant/defendant/judgment debtor can be

assessed. The present application being pre-mature for want of construction of separate entrance/separate staircase having been constructed in the portion falling in the share of the applicant/defendant/judgment debtor is accordingly dismissed being pre-mature.

announced in the open court
on 11.04.2026.

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