

10.09.2025

Present: Mr. Anuj Kumar Garg, Ld. Counsel for the plaintiffs
alongwith plaintiffs no.1 & 8 in person.

Mr. R.S. Juneja, Ld. Counsel for the defendants
alongwith defendants no.1 & 3 in person.

Ld. Counsel for defendants requests that he be discharged
from appearing on behalf of the defendants in the present case.

Since defendants no. 1 and 3 are present, Ld. Counsel for
the defendants is discharged from appearing on behalf of the
defendants in the present case.

Record is perused.

Despite repeated opportunities granted, defendants have
not filed their affidavit for admission and denial of documents.

The case cannot be kept pending indefinitely for filing
affidavit by the defendants for admission and denial of the
documents.

Let cost imposed on the last date of hearing be paid by the
next date of hearing.

Pleadings are stated to be complete.

From the pleadings, following issues are hereby framed:-

ISSUES:-

1. Whether the plaintiffs are entitled to a decree to recover
possession of the property bearing no. 38-A, New Ganesh
Park, Rashid Market,

Khureji Khas, Delhi as shown in green colour in the site plan filed alongwith the plaint? OPP.

2. Whether the plaintiffs are entitled to a decree to recover mesne profits @ Rs.25,000/- per month for the period starting on 13.12.2022 alongwith interest @ 24% per annum? OPP.

3. Whether the plaintiffs are entitled to a decree of injunction restraining the defendants from creating third party interest in the property bearing no. 38-A, New Ganesh Park, Rashid Market, Khureji Khas, Delhi as shown in green colour in the site plan filed alongwith the plaint? OPP.

4. Whether the plaintiffs are entitled to a decree of mandatory injunction directing the defendants to demolish the illegal and unauthorized construction raised at the property bearing no. 38-A, New Ganesh Park, Rashid Market, Khureji Khas, Delhi as shown in green colour in the site plan filed alongwith the plaint? OPP.

5. Relief.

No other issue arises or is pressed for.

Ld. Counsel for the plaintiffs requests for appointment of a Local Commissioner for recording of the evidence at the expenses of respective parties. Request is not opposed.

So that evidence can be recorded expeditiously and present case can be disposed off at the earliest, this Court is of the view that a Local

Commissioner can be appointed for recording of evidence of both the parties.

In view of the same, **Mr. R.N. Jain, Advocate, Enrollment No. D/120/1982, Mobile No.-08178091174, Chamber No.F-216 (2nd Floor), Karkarduma District Courts, Delhi** is appointed as the Local Commissioner for recording of evidence.

The terms of the assignment of the case are as under:-

1. **Chronology of Recording-** The Local Commissioner shall first record testimony of the ligating party and thereafter, of its witnesses. Oath shall be given to the witnesses under examination as per Oaths Act by the Local Commissioner.
2. **Exhibition of Documents-** The Local Commissioner shall exhibit all the documents on record sought to be proved by a party. In case of any objection to the documents being exhibited, the objection shall be recorded and left open with an assurance that mere marking of such exhibits will not be treated as the document having been proved. The objection and admissibility of such document shall be decided by this Court.
3. **Original Documents to be retained by parties-** The Local Commissioner will make an observation in the record of the original documents produced. He shall sign the exhibits with an endorsement 'OSR' wherever necessary and the party which produced the document may be required to show the same to the court at a later stage, if required.

4. **English Language-** The evidence/proceeding sheets shall be recorded by the Court Commissioner in English language. Once started, the cross-examination shall preferably continue on day-to-day basis.

5. **Question & Answers-** At the request of either or both the parties, the Local Commissioner may record testimony in question & answer form so that there is clarity about the deposition.

6. **No Third Person Intervention-** The Local Commissioner will ensure that the witness is not assisted/prompted by his Counsel or any other third party while under cross-examination.

7. **Recording of Demeanour of Witness-** The Local Commissioner will record the demeanor of the witness wherever it is found pertinent and necessary for sharing with the Court.

8. **Witnesses to sign all pages-** The Local Commissioner will obtain signatures of both the parties and witness on every page of testimony, besides signing it himself. Uncertified copy of the evidence recorded will be provided by the Local Commissioner to the parties.

9. **Safe keep of Original Deposition-** The Local Commissioner will keep the original depositions in his safe custody till such time they are filed in the Court in original.

10. **Miscellaneous Proceedings-** The Local Commissioner will maintain a miscellaneous proceeding sheet for each day of work and will submit it in the Court with his report.

Summoning of Official Witnesses-

1. **Summons from Court-** In case a litigating party is desirous of summoning an official witness, it shall obtain summons from the Court.

2. **Diet Money-** Diet money shall be paid to such witness by summoning party as per rules.

Advisory to Local Commissioner-

i. **The Local Commissioner** is expected to conduct himself in an impartial and polite manner. He is expected to maintain confidentiality and shall not solicit professional work from the parties. He shall not accept remuneration or any favour in cash or kind from the parties over and above the amount fixed by the Court. He shall be non-judgmental, shall not criticize the professional conduct of litigating parties, lawyers on their understanding of law or ridicule them in any manner. He shall be punctual. In case of any unforeseen circumstances warranting change of dates of recording of evidence, he shall apprise the parties in advance via phone call, email, WhatsApp etc.

ii. **No Third Party Sharing-** He shall not allow the deposition to be inspected by any third party and shall not share a copy thereof with any stranger without permission of the Court.

iii. **Inspection-** He shall not allow any party to inspect the recorded proceedings in his absence.

Remuneration of the Local Commissioner-

Fee to be paid- Fees of Rs.20,000/- will be paid by the parties to the Local Commissioner within 10 days from today. Fifty percent of this fees shall be paid jointly by the plaintiffs and the remaining fifty percent will be paid jointly by the defendants. Thereafter, Rs.4,000/-per sitting of two hours will be paid to the Local Commissioner. For work done beyond two hours, Rs.2,000/- for each additional hour will be paid.

The Stenographer will be arranged by the party whose evidence is being recorded at its own cost and in case Stenographer is arranged by Local Commissioner, then the actual cost of typing/printing shall be reimbursed by the party to the Local Commissioner. In case the evidence is recorded in the Court Complex, the Ahlmad of the Court shall provide the Court record to enable the examination of the witnesses and cost of Rs.500/- per sitting shall be paid to the Ahlmad. Ahlmad shall ensure the safe custody of the Court record during the proceedings. In case the Local Commissioner records the evidence in his office/out of Court, parties may get the certified copy of the documents, if required, for the purposes of using the same during evidence. Remuneration to the Local Commissioner and other costs shall be incurred by the party whose evidence is being led.

To be added as Litigation Cost- All payments shall be redeemable as cost of litigation at the end of the suit.

The Local Commissioner shall provide copy of evidence and proceedings of each date to both the parties through email/soft copy and shall endeavour to complete plaintiff's evidence by the next date of hearing.

List of witnesses be filed by both the parties within 15 days from today after supplying advance copy to the opposite party.

Advance copy of the affidavit of evidence be filed by Ld. counsel for plaintiff after supplying advance copy to the Ld. Counsel for the defendant.

Both the parties are directed to appear before the Local Commissioner on 04.10.2025 at 2:00 pm, on which date, the Local Commissioner will make a schedule for recording of evidence as per the mutual convenience of the Ld. Counsels and the Local Commissioner. The Local Commissioner will decide the place where the Ld. Counsels are required to appear.

To come up before this Court on 31.10.2025.

Copy of this order be given dasti to Ld. Counsels for the parties and be also sent to the Local Commissioner immediately by electronic mode.

(Shirish Aggarwal)
District Judge-03,
East District, KKD Courts,
Delhi, 10.09.2025