

26.02.2026

Present: Plaintiff with Ld. Counsel Sh. Varun Pratap Singh.
None for defendants.

Ld. Counsel for the plaintiff filed his vakalatnama.

At this stage, Sh. Udai Veer Singh has appeared and seeks his discharge stating that as plaintiff has engaged new counsel, hence, he be discharged from this case.

In view of the submissions made, Sh. Udai Veer Singh is hereby discharged from this case.

None has appeared on behalf of defendants despite repeated calls since morning.

Record reveals that defendants have not been appearing in the matter since last three dates of hearing. Today also none has appeared on their behalf. It is already 1 p.m. Hence all the *defendants are hereby proceeded exparte.*

Ld. Counsel for the plaintiff submitted that the application of the plaintiff under Order XXXIX Rules 1 & 2 CPC is still pending adjudication.

Heard on aforesaid application. Case file perused.

Plaintiff filed this suit for partition and injunction in respect of suit property i.e. one flat on second floor area measuring 100 sq. yards without roof rights out of property bearing no.C-615 out of Khasra

no.305/212 situated at Abadi Ganesh Nagar-II, in the area of village Shakarpur Khas, Illaqua Shahdara, Delhi-110092.

Plaintiff claimed that her and defendants' mother alongwith defendant no.1 jointly purchased suit property on 17.06.1999. Her mother died intestate on 22.02.2023 leaving behind her and defendants. She claimed that she is in possession of half portion of the suit property. She requested defendant no.1 not to disturb her peaceful possession and partition the suit property and take his 1/5th share in the same. But defendant no.1 is extending threat to dispossess from the suit property. She also claimed that defendant no.1 want to sale the aforesaid suit property without her and other defendant's consent and permission so she prayed to restrain the defendant no.1 from creating third party interest in the suit property and also to restrain him from dispossessing from the portion in her possession in the suit property till the disposal of the suit.

Defendant no.2 to 4 filed their written statement wherein they claimed that their mother had expired intestate on 22.02.2023. They also admitted that plaintiff is in possession of the suit property. They claimed that defendant no.1 has an evil eye on the suit property and therefore, wants to grab the same. They also admitted that suit property was jointly purchased by their mother and defendant no.1.

Defendant no.5 (A & 5B) also filed their written statement on the same line of written statement of 2 to 4.

It is pertinent to note that during pendency of the proceedings, defendant no.1 was expired so, his LRs were taken on record vide order dated 20.01.2026. They have not filed any written statement.

The suit property jointly purchased by the mother of the plaintiff and defendants. The mother of the plaintiff was owner of half of the suit property. Plaintiff is in possession of some portion of the suit property which is shown as red colour in site plan whereas remaining portion is in favour of defendant no.1.

In view of above and considering the fact, the LRs of defendant no.1 are hereby restrained to create third party interest in the suit property and further they are restrained from dispossessing the plaintiff from the portion in her possession in the suit property as shown red colour in site plan. Accordingly, application of the plaintiff under Order XXXIX Rules 1 & 2 CPC stands dispose off as allowed.

Put up for exparte evidence on 01.04.2026.

(Ravinder Singh-I)
District Judge-03
East District, KKD Courts,
Delhi, 26.02.2026