

IN THE COURT OF MS. MEENU KAUSHIK,
ADDL. DISTRICT JUDGE-03, NORTH-WEST DISTT.,
ROHINI COURTS, DELHI

RCA DJ No. 88/2019

CNR No. DLND010208392019



Jasbir Singh,
S/o Shri Jaidev Singh,
R/o H. No. 448-B, Village Mahipalpur,
New Delhi 110 037

..... Appellant

VS.

- 1 Narender Singh,
S/o Narayan Singh
- 2 Vikram Singh,
S/o Narender Singh
- 3 Vijay Singh,
S/o Narender Singh
- 4 Sonu,
S/o Narender Singh,
All R/o L-11, Near Red Light Chowk,
Village & Post Mahipal Pur,
New Delhi 110 037

..... Respondents

Date of institution	: 04.11.2019
Date on which reserved for judgment	: 14.03.2026
Date of decision	: 19.03.2026
Decision	: Dismissed

JUDGMENT:

1. By way of this Order I shall decide the appeal filed against the judgment dated 30.09.2019 passed by Ms. Manushri, the then Ld. Civil Judge, New Delhi District, Patiala House Courts, New Delhi.
2. For the sake of convenience, the parties are referred as per their status as before the Ld. Trial Court.
3. I have heard the arguments on behalf of both the parties.
4. Brief facts of the case are that the appellant/ plaintiff filed a suit for permanent injunction against the respondents, alleging therein that the appellant/ plaintiff, and his sons are absolute owner and are in position of built-up property area, admeasuring about 660 square yards out of Kasra number 943/4, situated in the area of village, Mahipalpur, New Delhi 37 as the said property is ancestral property of the appellant/ plaintiff. It is further stated that appellant/ plaintiff, and his family is in position of the above said property, since the year 1993, when father of the appellant/ plaintiff died, and the plaintiff developed the said property in the year 2005. Prior to 2005 plaintiff used to cultivate the said property, and used to earn his livelihood by cultivation of vegetables, and from selling milk from the above said property. That since then, appellant/ plaintiff is enjoying peaceful position of the said property. It is further stated that father of the respondent no.1, late Sri Narayan Singh was the honest person, and knew the respect of the elders, and also knew this settlement and till he was alive, the plaintiff and his sons never faced any kind of problem. But after the death of Shri Narayan Singh, all the respondents become dubious and since then are trying to create problems with the happy life of the plaintiff and his family members. It is further stated that in the month of April 2016, and thereafter, on 17.10.2016 and

23.11.2016, Respondents along with other 3-4 other persons came into the suit property of the plaintiff and threatened the plaintiff that the suit property is joint property of the family, and if plaintiff and his family do not vacate the property, they will face dire consequences. It is further stated that thereafter, the suit for permanent injunction was filed by the appellant/ plaintiff with a prayer to restrain the defendants from illegal disposition of the plaintiff without taking due process of law.

5. In written statement to the said suit, it was stated by the respondents, that the respondents got the property in dispute as their share in the ancestor property, and the appellant/ plaintiff had constructed his share, and is now bent upon to grab the property of the respondents. As per the respondents, the suit of plaintiff is based upon false and frivolous facts, as the property was a joint ancestral property of about 2.8 bigas, which was inherited by late Shri Nathan Singh. And then the suit property was inherited by all the 3 sons of late Shri Nathan Singh. That the property was equally divided amongst them. It is further stated that it was decided that two roads/ gali of 15 feet wide shall be left between the three parts after the partition for the purpose of the way. It is further stated that in the said portions of Shri Hoshiyar Singh and Shri Jaydev Singh, buildings were constructed for commercial purposes in the year 2013-14, and that the plaintiff had trespassed into the suit property, which belongs to the respondents. It is further contended on behalf of respondents that the plaintiff has suppressed the material facts and has fabricated the documents in his favour.

6. On the basis of pleadings, following issues were framed by the Ld. Trial Court:

Issue No.1: Whether the plaintiff is entitled for the decree of permanent injunction against the defendants restraining then defendants from

dispossessing the plaintiff illegally and forcibly from the suit property?
OPP

Issue No.2: Relief

7. The suit of plaintiff was dismissed vide order dated 30.09.2019.

The said judgement is challenged on the following grounds:

- That the judgement is passed without applying the judicial discretion, and is unjustified and bad in law.
- That the evidence led by the parties is not duly appreciated by the Ld. Trial Court.
- That the Ld. Trial Court grossly ignored the fact that the respondents have failed to lead any cogent evidence to prove their claim over the suit property.
- That the Ld. Trial Court failed to follow the basic principle of natural justice and pronounced the judgment on false and fabricated grounds taken by the respondents.

8. Arguments addressed on behalf of both the parties are taken into consideration. Record perused.

9. To prove his case the plaintiff has examined himself as PW-1 and has reiterated the facts in his affidavit as averred in the plaint. As per the defence taken by the defendants by way of affidavit filed by defendant no.2 during evidence, Respondent no.2 examined himself as DW1. In his testimony, he stated that the father of respondent no.1, was suffering from cancer. And for this reason, respondents were left with no money to construct their share in the ancestral property. It is further stated by respondent no. 2 that plaintiff had taken advantage of the medical condition of father of respondent no.1 and tried to grab their share in the ancestral property. It is further stated that all other co-sharers in the suit property had constructed their respective shares and are living

peacefully. It is further stated that the suit property, bearing Khasra number 943/4 was ancestral property, being inherited by late Shri Nathan Singh, from his ancestors, and after his demise, the said land was inherited by his 3 sons, namely, Shri Narayan Singh, Shri Hoshiar Singh, and Shri Jaydev Singh. It is further stated that, in the year 2005, 5 kachacha rooms with 2 toilets, and a big hall was constructed on undivided ancestral land, bearing Khasra number 943/1. As agreed mutually by all the 3 legal heirs of late Shri Nathan Singh, which later on came in the shareholding of late Shri Naryan Singh, that is father of respondent no.1. It is further stated that suit property is equally partitioned in three equal plots, admeasuring 660 square yards excluding 15 feet road/ gali between all the three portions. It is further stated that Plaintiff and respondent no.1 inherited their respective portion of shares and became lawful owner of their respective shareholdings. The plaintiff, at the time of constructing his portion, had taken permission from respondent no.1, to put construction building material on the shareholding of respondent no.1, and used share of respondent no.1, on many other occasions. The plaintiff had taken water connection on the undivided suit property in the name of his son, just to create sham evidence. It is further stated that the respondents have already raised a complaint to electricity department in the year 2018 against the plaintiff and his son for providing electricity connection in the name of plaintiff's son, on the portion of respondent no.1. It is further stated that after completion of construction on the share of plaintiff, respondent number one asked him to remove all his leftover malba and building material, but plaintiff denied to the same and thus, police complaint in this regard was made against the plaintiff. As per the defendants, plaintiff is having

wrong claim and intention to grab the suit property which belongs to respondents.

10. Plaintiff during cross examination stated that his uncles also had share in the suit property and his uncle and the brothers had given their share in the suit property to him orally, and no written documents regarding the same are available. As per the plaintiff, electricity metre in the suit property is installed in the name of his son. No other document with respect to the ownership of the suit property is placed on record by the plaintiff. Plaintiff has relied upon copy of mutation/ khatauni, however, no witness to prove the same is examined by him. As such, there is no document on record to prove the title of the plaintiff in the suit property. It has remained unexplained on behalf of the plaintiff as to why his uncle, i.e. father of the defendants and his other brothers had given up their share in the suit property to him. He admitted that there was family settlement between all the members of the family to leave gali in between the portions of the suit property.

11. Plaintiff has failed to explain as to why the property which allegedly came into share of his uncle, that is father/ grandfather of the defendants, was given up to him by his uncle, and his cousin brothers, and as to why his own brothers did not claim their share in the suit property.

12. During cross examination, plaintiff admitted that the subject property is joint family property and his uncles and brothers had right in the same. No iota of evidence is adduced by the plaintiff to prove that the suit property was orally or otherwise given to him by his uncle/ respondent no.1. Defendants have categorically denied the claim of the plaintiff that the suit property was ever given to him. During cross examination, plaintiff further stated that about 7 to 8 persons have their

share in the suit property, however, none of the family members have ever raised any objection with respect to his possession over the suit property, since the year 2005. He further stated that none of the family members who have shared in the suit property ever authorised him to retain the possession of the suit property and that he is residing in the suit property on his own since 2005. He further stated that he never purchased the portion of the defendants in the suit property. From the cross examination of the plaintiff, it can be safely concluded that the plaintiff has been failed to establish any independent right, title or claim over the suit property and has also failed to establish a case against the defendants. Thus, the plaintiff has miserably failed to discharge the onus upon him to prove the case.

13. In view of above discussion, the court is of considered view that there is no error or infirmity in the judgment passed by Ld. Trial Court. Hence, the appeal is dismissed.

14. The Trial Court record be sent back to the Ld. Trial Court along with copy of this order. Decree sheet be prepared accordingly. No order as to cost. The present appeal file be consigned to Record Room.

*(Announced in the open Court
on 19th March, 2026)*

(Meenu Kaushik)
District Judge-03
Patiala House Courts, New Delhi District
New Delhi