

20.07..2026

Present: Sh. S. Hussain, Ld.counsel for the plaintiff along
with plaintiff.
Sh. Mayank Panday, (through VC) Ld. Counsel for
defendant

1. An application u/o XXXIX Rule 1 and 2 CPC is pending consideration. Reply is also filed by the defendant.
2. Present suit is filed by plaintiff seeking partition, permanent injunction and mandatory injunction of the suit property. It is further the case of plaintiff that the father of the plaintiff Sh. Radhey Shyam Attri was the owner of the suit property bearing no. house no. 476 new no. 475, Railway Road, Azadpur Delhi-33.
3. Admittedly, defendant no.1 is the stepmother of the plaintiff and D2 is the step brother of the plaintiff and D3 is real sister of plaintiff. It is submitted by the Ld. Counsel that the father of the plaintiff was the owner and all the parties are living jointly in suit property. Ld. Counsel further submits that plaintiff apprehends that third party interest will be created the suit property which will dilute the subject matter of the present suit.
4. Per contra, Ld. Counsel for defendants submits that present suit is not maintainable as the plaintiff does not have any right, title or interest in the suit property. Further, D1 is the owner and in possession of the suit property in question.
5. The plaintiff does not have any prima facie case in his favor neither the balance of convenience in favor of plaintiff. Ergo, the present application is liable to be dismissed.
6. Heard. Considered.
7. The application u/o XXXIX Rule 1 and 2 CPC is decided on the basis of touchstone of the 3 basis ingredients which are prima facie case, balance of convenience and irreparable loss if the injunction is not granted.

8. In the present case D1 claims to be the owner of the suit property and is the stepmother of the plaintiff and it is case of the plaintiff that the suit property was owned by late father of the plaintiff. Thus, there are substantial question of law and fact which is to be decided through the rigor of trial. I am of the humble opinion that the subject matter is required to be protected till the disposal of the present suit and if the injunction is not granted then it will lead to multiplicity of proceedings.
9. Further, the balance of convenience is in favor of plaintiff and if the injunction is not granted it will lead to irreparable loss being cause to the plaintiff.
10. ***Accordingly, the application stands allowed. The defendants are restrained from selling, alienating transferring, parting with the possession of the suit property and creating any third party interest in the suit property till the disposal of the present suit.***
11. At this stage, Ld. Counsel for plaintiff wishes to withdraw the application u/o 38 Rule 5 CPC r/w Section 151 CPC filed by plaintiff. Accordingly allowed application stands withdrawn.
12. Evidence affidavit of PW1 Sachin Attri will be e filed by plaintiff during course of day and hard copy be place on record within two days from today. A spare copy is also on record which can be retrieved by Ld. Counsel for defendant as per his convenience.
13. Put up on **12.10.2026**

(Akbar Siddique)
DJ-04, North, Rohini Courts,
Delhi/20.07.2026