

**IN THE COURT OF SH. VIPIN KHARB,
DISTRICT JUDGE -03, SHAHDARA DISTRICT,
KARKARDOOMA COURTS, DELHI**

CS No. : 605/25

CNR No. : DLSH01-005010-2025

Ms. Anju
W/o Late Sh. Amar Singh
R/o A-1/29, Welcome, Seelampur,
Delhi – 110053

...PLAINTIFF

versus

1. Mrs. Beena
W/o Late Sh. Jaswant Singh
2. Ms. Asha
D/o Late Sh. Om Prakash
3. Ms. Rikky
D/o Late Sh. Om Prakash
4. Ms. Pinky
D/o Late Sh. Om Prakash

All R/o A-1/29, Welcome, Seelampur,
Delhi – 110053

...DEFENDANTS

Date of Institution of suit	:	28.08.2025
Date of reservation of judgment	:	20.05.2026
Date of pronouncement of judgment	:	22.06.2026

EX PARTE JUDGMENT

Introduction

1. The present suit has been filed by the plaintiff for possession, partition and permanent injunction against the defendant.

Plaintiff's case

2. The case of the plaintiff is that property bearing no. A-1/19, Welcome, Seelampur, Delhi – 110053 measuring about 25 sq yds (hereinafter referred to as '**Suit Property**') is an ancestral property purchased by her father-in-law Late Sh. Om Prakash who died intestate. The Plaintiff's husband Late Sh. Amar Singh and Defendant No.1's husband Late Sh. Jaswant Singh along with their three sisters Asha, Rikki, and Pinki are only legal heirs of Late Sh. Om Prakash. Hence, each of them including the Plaintiff (being widow of one coparcener Late Amar Singh) are entitled to a 1/5th share in the said property. Plaintiff was married to Late Sh. Amar Singh in the year 2002 and after marriage she started residing on the ground floor of the suit property with her husband. Her entire streedhan and household items are lying locked inside the said room. Her husband passed away on 13.01.2024 but when, after performing funeral and customary rites, Plaintiff tried to enter into suit property, she was restrained by the Defendants from entering into her portion of the house, even though her belongings and rightful share remain in the property. When the Plaintiff's mother-in-law expired, the Defendants again prevented her from entering into suit property, even though she is a co-owner in the property and had kept her belongings locked in a separate room.

Plaintiff lodged a written complaint dated 25.04.2025 before the concerned police station, DCP and Commissioner of Police. Plaintiff also sent a legal notice dated 07.05.2025 to the defendants demanding her rightful share and restoration of possession but defendant failed to comply. Therefore, plaintiff filed the present suit.

3. Summons were issued to the defendants and they were served on 04.09.2025 but, despite opportunities, neither they have appeared nor filed their Written Statement (WS) and they were proceeded *ex parte* vide order dated 02.02.2026.

4. Thereafter, matter was listed for *ex parte* evidence of plaintiff.

Plaintiff's Evidence

5. Plaintiff examined herself as PW-1 and tendered her evidence by way of affidavit Ex.PW1/A and proved on record copy of her Aadhar card as Mark X, original site plan of suit property as Ex.PW-1/2, copy of complaint dated 25.04.2025 as Ex.PW-1/3, original postal receipts of complaint dated 25.04.2025 as Ex.PW-1/4, notice dated 13.05.2025 as Ex.PW-1/5 (colly) and original postal receipts of the notice as Ex.PW-1/6.

6. Vide separate statement, plaintiff has closed her evidence on 24.04.2026 and matter was listed for *ex parte* final arguments.

7. *Ex parte* final arguments heard. Case file perused.

8. As the defendants have not appeared in the present case despite service and they were proceeded *ex parte* vide order dated 02.02.2026, the testimony of plaintiff has remained unrebutted and unchallenged. However it is pertinent to bear in mind that merely because the defendants are *ex-parte* does not mean that the Court is to not to adjudge the merits of the plaintiff's suit.

9. The plaintiff in the present case has filed on record copy of his aadhar card Ex.PW1/1, original site plan of the suit property Ex.PW-1/2, copy of complaint dated 25.04.2025 Ex.PW-1/3, original postal receipts of the complaint dated 25.04.2025 Ex.PW-1/4, notice dated 13.05.2025 Ex.PW-1/5 (colly) and original postal receipts of notice Ex.PW-1/6. It is admitted case of the plaintiff that the plaintiff and defendants are legal heirs of deceased Sh. Om Prakash and have share in the suit property. Plaintiff's husband, defendant no.1's husband and defendant no.2 to 4 are the children of Late Sh. Om Prakash, therefore, they fall within the Class I heir category and have equal shares in the suit property.

10. As discussed above, prayer no. (a) of the plaintiff is allowed and a preliminary decree of partition is passed in this case with regard to the Suit property i.e. H. No. A-1/19, Welcome, Seelampur, Delhi – 110053 measuring about 25 sq yds

11. The share of the parties is determined as follows:

S. No.	Party i.e. plaintiff or defendant	Share
1	Plaintiff	1/5
2	Defendant no.1	1/5

3	Defendant no.2	1/5
4	Defendant no.3	1/5
5	Defendant no.4	1/5

12. Plaintiff and defendants are entitled for division of their shares as stated above by metes and bounds for effecting such division in accordance with the provisions of Order 20 Rule 18(2) CPC. In view of the Order 20 Rule 18(2) CPC, this Court has power and jurisdiction to take all such measures as are necessary, in the wake of preliminary decree (which has declared the rights) for effecting partition and to pass 'further directions' in this regard including the issuance of Commission with an intent to make the partition and separation, if the parties are not agreeing to partition of property by metes and bounds.

13. In case the situation is that there is no possibility of division of suit property by metes and bounds, further directions for sale of the property and distribution of the proceeds would be resorted to in pursuance of 'further directions' as in Order 20 Rule 18(2) CPC.

14. Let a preliminary decree sheet be prepared in the aforesaid terms.

15. In view of the above observations and distribution of shares among the parties, the prayer no. (b) seeking possession of the plaintiff's portion / room on the ground floor of the suit property H. No. A-1/19, Welcome, Seelampur, Delhi – 110053 measuring about 25 sq yds is also allowed and a decree for possession is passed in favour of the plaintiff and against the defendants.

16. The plaintiff has also sought prayer no. (c) for permanent injunction and prayer no. (d) for mandatory injunction against the defendants. Since the defendant no. 1 to 4 have 1/5 share each, therefore, they have every right to create third party interest in the suit property. Thus, the said prayers of the plaintiff stand dismissed.

**Announced in open Court today
on 22.06.2026**

**(Vipin Kharb)
District Judge-03, Shahdara
Karkardooma Courts, Delhi**