

**IN THE COURT OF SH. AASHISH GUPTA, DISTRICT JUDGE-01,
NORTH EAST, KARKARDOOMA COURTS: DELHI**

CS No. 121/18

CNR No. DLNE01-001740-2018

In the matter of :-

1. Sh. Om Prakash Ojha
(since deceased through his legal heirs)

i) Smt. Munni Ojha
W/o Late Shri O. P. Ojha
R/O T-305, St. No. 7,
Gautampuri,
Delhi-110053

ii) Smt. Meenu Ojha
W/o Sh. Ashish Sharma
R/O A2/24, Second Floor,
Sector-4, Rohini,
Delhi-110085

iii) Sh. Lucky Ojha
S/o Late Shri O. P. Ojha
R/O T-314, St. No. 7,
Gautampuri,
Delhi-110053

iv) Sh. Akash Ojha
S/o Late Shri O. P. Ojha
R/O T-314, St. No. 7,
Gautampuri,
Delhi-110053

v) Smt. Chinky Ojha
W/O Sh. Vikram Sharma
R/O 26/161, Second Floor,
West Patel Nagar,
Delhi-110008

2. Smt. Ram Murti Ojha
(since deceased and all the legal heirs
are parties to the present suit)
W/o Late Sh. Shiv Nath Ojha

.....Plaintiffs

VERSUS

1. Sh. Mithlesh Ojha
(since deceased through legal heirs)
- i) Smt. Poonam Ojha
W/o Late Shri Mithlesh Ojha
R/O T-305, St. No. 7,
Gautampuri,
Delhi-110053
- ii) Smt. Ricky Ojha
S/o Late Shri Mithlesh Ojha
R/O T-305, St. No. 7,
Gautampuri,
Delhi-110053
- iii) Sh. Rohit Ojha
S/o Late Shri Mithlesh Ojha
R/O T-305, St. No. 7,
Gautampuri,
Delhi-110053
- iv) Reenu Ojha
D/o Late Shri Mithlesh Ojha
R/O T-305, St. No. 7, Gautampuri,
Delhi-110053
2. Sh. Devender Ojha
S/O Late Sh. Shiv Nath Ojha
R/o T-305, St. No. 7, Gautampuri,
Delhi-110053

3. Smt. Suman Sharma
W/o Sh. Krishna Kant Sharma
D/o Late Sh. Shiv Nath Ojha
R/o C-38, Krishna Nagar,
Mathura, UP

4. Smt. Kiran Sharma
W/o Sh. Jitender Sharma
D/o Late Sh. Shiv Nath Ojha
R/o House No. 6, Shiv Vihar-2,
100 Futa Road,
Awash Puri Bodia-282007

.....Defendants

Date of institution : 27.04.2018
Arguments heard on : 28.02.2026
Date of Judgment : 27.03.2026

JUDGMENT

1. **Shiv Nath Ojha** (died on 20.11.2006) and **Ram Murti Ojha** (original P-2; who died during pendency of suit on 08.07.2025 with her LRs already on record) had three sons and two daughters from their wed-lock.
2. The said three sons are P-1 (who expired on 21.12.2022); D-1 (who expired on 03.09.2025); and D-2 in this suit.
3. The said two daughters are arrayed as D-3 and D-4 in this suit.
4. Property bearing No. T-305, Gali No. 7, Gautam Puri, Delhi-53 measuring 130 square yards (hereinafter referred to as '**suit property**') is the subject matter of disputed between the parties.
5. It is the admitted case of all the parties before this court that originally, late Shiv Nath Ojha was the owner of the suit property.

6. It is also not disputed before this court that late Shiv Nath Ojha died intestate.

Plaintiffs' Case

7. Plaintiffs i.e. P-1 (one of the sons) and P-2 (wife of Shiv Nath Ojha) are before this court seeking 1/6th share each in the suit property and have thus, prayed for a decree of partition and consequential injunctions against D-1 and D-2.
8. It is their case that the plaintiffs live across the suit property and have constructive possession of the said property. They claim that on 12.04.2018, D-1 and D-2 started breaking down a ground floor wall in the suit property; it was being done without the permission of the plaintiffs; when the same was objected to, a scuffle broke out and the matter was reported to police.
9. Plaintiffs claim that despite their repeated requests, D-1 and D-2 have refused to give them their share in the suit property. As per plaintiffs, D-3 and D-4 also have a share in the property.

D-1 and D-2's Case:

10. Shorn off unnecessary details, D-1 and D-2 claim that their father left behind three immovable properties detailed below in Table-1:

TABLE-1		
S. No.	Description of Properties	Remarks
1.	<u>Property No. 1:</u> House bearing no. bearing No. T-305, Gali No. 7, Gautam Puri, Delhi-53 measuring 130 square yards.	This is the suit property.
2.	<u>Property No. 2:</u> T-322, Gali No. 8, Gautampuri, Delhi measuring 257 square yards.	
3.	<u>Property No. 3:</u> T-314, Gali No. 7, Gautampuri, Delhi measuring 100 square yards.	

11. It is the case of D-1 and D-2 that the above three properties were purchased in 1973, 1980 and 1987 respectively by late Shiv Nath Ojha and during the lifetime of late Shiv Nath Ojha, in mid-January, 2000 the above three properties were **orally partitioned and divided** between all the legal heirs of late Shiv Nath Ojha in the manner described in Table-2 below:

TABLE-2		
S. No.	Description of Properties	Remarks
1.	<u>Property No. 1:</u> House bearing no. bearing No. T-305, Gali No. 7, Gautam Puri, Delhi-53 measuring 130 square yards.	This is property came to share of D-1 and D-2 with D-1 occupying the 2 nd floor and D-2 occupying the 1 st floor. The ground floor is stated to be common between them.
2.	<u>Property No. 2:</u> T-322, Gali No. 8, Gautampuri, Delhi measuring 257 square yards.	This property is stated to have been retained by Shiv Nath Ojha for his use and the use of his wife/P-2. Eventually, it is claimed that this property was divided between P-2, D-1 and D-2 in three shares before the death of Shiv Nath Ojha.
3.	<u>Property No. 3:</u> T-314, Gali No. 7, Gautampuri, Delhi measuring 100 square yards.	This property is stated to have been given to P-1/Om Prakash Ojha.

12. It is the case of D-1 and D-2 that the above three immovable properties of Shiv Nath Ojha were divided by him during his lifetime in the above manner between his wife and sons; with respect to daughters i.e. D-3 and D-4, it is claimed that since they had been married off prior to said oral partition, they were not given any shares.
13. It is pertinent to note that as per the written statement of D-1 and D-2, it is averred that **late Shiv Nath Ojha has started his own proprietorship firm M/s Ojha & Company under which he was doing business of interior decoration.** Subsequently, his sons are stated to have joined the business and it is the specific case of D-1 and D-2 that late Shiv Nath Ojha was managing the business and

house affairs as *karta* and all properties, either in his name or in the name of family members, belong to joint family property which shall have **joint and common ownership of all the parties.**

14. I may note that there is a clear contradiction in the plea of D-1 and D-2 noted above. While on one hand, they claim that the firm being run by Shiv Nath Ojha was **his own proprietorship firm in the name of M/s Ojha & Company,** they also claim that all the properties are joint properties.
15. I may note that D-1 and D-2 do not assert in their written statement that his father was *karta* of a Hindu Undivided Family or was running his firm M/s Ojha & Company as a joint family business and each of the properties noted above were purchased from the funds of any such joint family business. The pleadings noted above are mentioned in para 3 of the amended written statement of D-1 and D-2 under the heading 'Brief Facts' and I shall come back to this aspect of this matter in a little while.
16. **Suffice is to say, at this stage, that qua the suit property, D-1 and D-2 are resisting partition on the ground that an oral partition has already taken place between all the legal heirs of Shiv Nath Ojha in mid of January, 2000 and the suit property has come in the hands of D-1 and D-2.**
17. I may also note that the said defendants have specifically asserted that the present suit for partition is barred by limitation as the partition has already taken place in January, 2000.

Case of D-3 and D-4

18. The said defendants claim that they have a share in the suit property as their father died intestate. They deny the claim of D-1 and D-2 of any oral partition in the manner set up by the said defendants. Thus, they are supporting the case of the plaintiffs.

Replication of plaintiffs

19. In the replication to the written statement of D-1 and D-2, plaintiffs have denied the claim of oral partition. They also deny that P-2 (*sic* P-1) had anything to do with the business of late Shiv Nath Ojha. It is claimed that P-2 (*sic* P-1) has a separate and distinct business than the business of Shiv Nath Ojha and he, from his own funds have purchased property no. 3 described in Table-1 above. Thus, it is asserted that the said property i.e. property no. 3 is the property of Om Prakash Ojha only.
20. Plaintiffs assert that as far as property no. 2 described above is concerned, late Shiv Nath Ojha was the owner of the same and during his lifetime, he transferred the same to P-2/Ram Murti Ojha, D-1/Mithlesh Ojha and D-2/Devender Ojha.
21. The claim of any joint family business or a joint family business supplying the funds for purchase of any property so as to make them joint properties is denied by the plaintiffs.

Issues Framed

22. Based on pleadings of the parties, following issues were framed

vide order dated 11.02.2019, which read as under:-

<i>Issue nos.</i>	<i>Issues framed</i>
1.	<i>Whether the present suit has not been valued properly for the purposes of the court fees ? OPD</i>
2.	<i>Whether the present suit is barred by limitation ? OPD</i>
3.	<i>Whether the present suit is bad for non-joinder of the necessary parties ? OPD</i>
4.	<i>Whether the plaintiff is entitled for a preliminary decree of partition, in respect of the property bearing No. T-305, Gali No.7, Gautam Puri, Delhi-53, as claimed in the plaint ? OPP</i>
5.	<i>Whether the plaintiff is entitled for a decree of permanent injunction, as claimed in the plaint ? OPP</i>
6.	<i>Whether the plaintiff is entitled for a final decree for partition of the suit property by metes and bounds ? OPP</i>
7.	<i>Relief.</i>

Evidence Led

23. Plaintiffs led their evidence, detailed below:-

Particulars of witness	Nature of witness and documents exhibited
PW-1/Sh. Lucky Ojha.	P-1 (iii) himself. He reiterated his case by way of his affidavit in evidence Ex.PW1/1. He relied upon the following documents: 1. Original of site plan of suit property (Ex.PW1/1). 2. Copy of sale deed dated 08.09.1970 of the suit property (Ex. PW1/2). 3. Copy of Registered GPA dated 12.01.1973 (Ex.PW1/3). 4. Copy of Election Card of father of PW-1 (Ex. PW1/4) (OSR). 5. Copy of PAN Card of father of PW-1 (Ex.PW1/5) (OSR). 6. Copy of Aadhar Card of father of PW-1 (Ex.PW1/6) (OSR). 7. Copy of Driving Licence of father of PW-1 (Ex.PW1/7) (OSR). 8. Copy of bill of Delhi Jal Board dated 25.05.2018 (Ex.PW1/8) 9. Copy of complaint dated 12.12.2014 (Ex.PW1/9). 10. Original Death Certificate of Late Sh. Shivnath Ojha (Ex. PW 1/10). 11. Pen drive (Ex. PW 1/11). 12. Legal Notice dated 13.04.2018 (Ex. PW 1/12). 13. Copy of complaint against defendant No. 1 & 2 dated 16.04.2018 (Ex.PW1/13).

24. PW-1 was the sole plaintiff witness. He was duly cross-examined by the counsel for the defendants.

25. After plaintiffs' evidence, defendants examined witnesses detailed below:-

S. No.	Particulars of witnesses	Nature of witnesses and documents exhibited
1.	D1W1/Sh. Mithlesh Ojha.	He is D-1 in this suit. He reiterated his case by way of his affidavit in evidence Ex.D1W1/A. He relied upon the following documents: 1. Copies of the work assignment, quotations and other documents of M/s Ojha & Co. (Mark A) (colly. 9 pages). 2. Copy of the PAN number of Late Shiv Nath Ojha (Mark B). 3. Copy of statement of account of M/s Ojha and Company (Mark C). 4. Copies of identity proofs i.e. Aadhar card, Pan Number, Ration Card, Electricity bills, of Defendant No.1 (Mark D) (colly. 9 pages). 5. Original Tax receipt paid by defendant No.1 for suit property (Mark J). 6. Copy of the marriage card of the defendant No.2 (Mark E). 7. Copies of the election card, driving license, ration card, electricity bills etc. of the defendant No. 2 (Mark F) (colly. 9 pages). 8. Copy of the VAT receipt issued to the defendant No. 2 (Mark G). 9. Copy of the receipt issued to the defendant No. 2 by the IOC (Mark H). 10. Copy of the ITR filed by the defendant No. 2 (Mark I) (colly. 2 pages).
2.	D2W1/Devender Ojha.	He is D-2 in this case. He reiterated his case by way of his affidavit in evidence Ex.D2W1/A. He also relied upon the aforesaid documents.
3.	DW3/Bhagwan Das Sharma	He reiterated his case by way of his affidavit in evidence Ex.DW3/A.
4.	DW4/Munshi Lal Sharma	He reiterated his case by way of his affidavit in evidence Ex.DW4/A.
5.	DW5/Kiran Sharma	She is D-4. She reiterated her case by way of his affidavit in evidence Ex.DW5/A. She relied upon copy of her aadhar card Ex.DW5/1.

26. Aforesaid defendants/witnesses were duly cross-examined by the concerned counsel.

27. Final arguments heard. Record perused.

28. Based on the evidence led before this court, the issue-wise finding in the matter is as under:

Issue No. 1

1. *Whether the present suit has not been valued properly for the purposes of the court fees ? OPD*

29. The onus of this issue was of D-1 and D-2 to discharge. No evidence was led before this court to demonstrate how the suit has not been valued properly. Plaintiffs have valued the present suit for the purpose of jurisdiction at Rs.50 lacs and based on their plea of constructive possession, they have paid appropriate court fees. Nothing was argued or brought to my notice as to how the said valuation or court fees paid thereupon is not as per law.
30. Thus, in the absence of any evidence, the issue under consideration is decided against D-1 and D-2.

Issue No. 2

2. *Whether the present suit is barred by limitation ? OPD*

31. Counsel for D-1 and D-2 argued that the oral partition in this case took place in mid 2000 and therefore, the suit is hit by limitation. He further argued that as per the documents placed on record by the plaintiffs themselves, purportedly D-1 and D-2 have not allowed the plaintiffs to enter the suit property on or about 13.04.2015 itself. He drew my attention to Ex.X1 which is a police complaint made by P-1/Om Prakash Ojha against D-1 and D-2 claiming that he has been disallowed entry in the suit property. Attention was also drawn to another police complaint Ex.PW1/9 dated 12.12.2014 made by Ram Murti Ojha/P-2 *inter alia* against

the contesting defendants. Counsel argued that the present suit was filed only on 27.04.2018 which is beyond the limitation period of 3 years provided under Article 113 of the Limitation Act and therefore, as per counsel for D-1 and D-2, the suit is barred by time.

32. In this regard, counsel for D-1 and D-2 placed reliance on the judgment of the Hon'ble High Court of Delhi passed in the matter of **Santosh Bhasin vs. Umari Malhotra (through LRs) dated 10.01.2024 passed in RFA no. 830/2010** and in **Nanak Chand & others vs. Chander Kishor & others ILR (1983) I Delhi Page 823**. Counsel submitted that in the said judgments, the Hon'ble High Court of Delhi has held that the suit for partition is covered by Article 113 of the Limitation Act and thus, should have been filed within 3 years after the *right to sue accrued to the plaintiffs*. It is his argument that if D-1 and D-2 had denied entry to the plaintiffs in the suit property on 13.04.2015 itself (as per Ex.X1 which was admitted by PW-1 during his cross-examination dated 19.09.2024), the suit for partition could have been filed on or before 13.04.2018 and since it was only filed on 27.04.2018, it is beyond time. It was claimed that even prior thereto on 12.12.2014 (as per Ex.PW1/9 relied upon by the plaintiffs) purportedly some documents were stolen by defendants and thus, there was a consistent claim by plaintiffs that their share in the property is threatened.
33. On the other hand, counsel for plaintiffs argued that the judgments cited by the counsel for contesting defendants is contrary to the law laid down by the Hon'ble Supreme Court of India. He submitted that as per the settled law, the cause of action in a

partition suit runs in perpetuity and it reoccurs so long as the joint status subsists and the property remains unpartitioned by metes and bounds. In this regard, he placed reliance on the judgment passed by the Hon'ble Supreme Court of India in the matter of **Syed Shah Ghulam vs. Syed Shah Ahmed (1971) 1 SCC 597**. He also placed reliance on the judgment of **Vidya Devi @ Vidyawati vs. Prem Prakash (1995) 4 SCC 496**.

34. I have given thoughtful consideration to the rival arguments of the parties and have gone through the entire record and the evidence before me. I have also gone through the judgments filed by the parties for deciding the issue under consideration.
35. In my humble opinion, neither on facts nor in law, the present suit can be said to be barred by time. In the present case, D-1 and D-2 are setting up the point of limitation on two grounds.
36. *Firstly*, they claim that since there was an oral partition in mid January, 2000, therefore, the suit for partition is barred by time. In my humble opinion, the said argument is misconceived. If D-1 and D-2 are able to establish an oral partition in January, 2000, the entire substratum of the plaintiffs' claim shall disappear because in that case it shall have to be held that since partition between the parties have already taken place in January, 2000, therefore, no cause of action now subsists for the plaintiffs to have sued the defendants for partition of a property which already stood partitioned. If it is so decided, then there is no question of any limitation coming in the way of the plaintiffs for suing the defendants as the entire suit shall have to be thrown out of the

window. Therefore, the plea of D-1 and D-2 as set up in their pleadings qua applicability of limitation on this count is misconceived.

37. *Secondly*, D-1 and D-2 argued that since a police complaint was made by P-1 on 13.04.2015 (Ex.X1), therefore, the right to sue the defendants qua the suit property accrued on the said date and therefore, the present suit filed on 27.04.2018 is beyond time. They want this court to rely upon Article 113 of Limitation Act, 1963 to treat 3 years as the period of limitation which shall apply to the facts of this case.
38. A bare perusal of Ex.X1 shows that P-1/Om Prakash Ojha had written to the SHO concerned on 13.04.2025 complaining that the D-1 and D-2 are trying to usurp share of others i.e. P-1, P-2, D-3 and D-4 in the suit property. It is claimed in the said police complaint that D-1 and D-2 are forcibly carrying out some demolition in the suit property (which is yet to be divided) and the same is being done with the aim to take away the share of the others. He further claims in the said complaint that the said defendants are not allowing him entry in the suit property and thus, action be taken against them, as per law.
39. Thus, in the said letter, at best, P-1 is complaining to police about some illegal acts being done by D-1 and D-2 and he wants police to take action. In the said complaint, it is specifically asserted by P-1 that the said defendants are not allowing him to **collect his goods lying there**.
40. It is nowhere written in the said letter that either of the plaintiffs

have been completely ousted from the said property to the effect that now D-1 and D-2 are claiming themselves to be the absolute owners of the suit property with no shares of other claimants. It is not written in the said letter that D-1 and D-2 are denying the share of each of the other sharers in the suit property. The only thing which is asserted in the said letter is (a) that D-1 and D-2 are carrying out some forcible demolition in the property; (b) they want to usurp share of others; (c) they are not allowing entry to P-1 in the property or to collect his articles; (d) that they have thrown out their mother/P-2 from the property; (e) that P-1 wants police action against D-1 and D-2.

41. This letter cannot be read to mean that D-1 and D-2 has claimed independent title in the suit property to the exclusion of others.
42. Similarly, the other letter Ex.PW1/9 also speak of some theft made by defendants in the almirah of P-2 kept at the suit property and does not specifically show that there is any denial of right to share in the suit property by the defendants.
43. In the first judgment cited by the contesting defendants i.e. **Santosh Bhasin** (*supra*) an observation has been made by the Hon'ble High Court of Delhi that a right to file a suit for partition would be covered under Article 113 of Limitation Act. In my humble opinion, the said observations of the Hon'ble High Court of Delhi are not helpful to the case of D-1 and D-2. In the said judgment, the Hon'ble High Court of Delhi held that a suit for partition can be filed under Article 113 of Limitation Act within **3 years after the right to sue accrues.**

44. It is settled law that the ratio of a given judgment has to be read in the light of the facts of the said case. In my humble opinion, it was in the backdrop of the facts of that case that the Hon'ble High Court held that the right to sue accrued in that case after the appellant therein was denied entry to a *barsaati* room. It was in the peculiar facts and circumstances of that case that such a finding was returned and the said observation of the Hon'ble High Court that the right to sue accrued to the plaintiff when entry was denied to plaintiff to a *barsaati* room of property in dispute in that case shall not apply as a matter of principle that in every case where entry is denied, limitation begins to run. Thus, it cannot be argued that in every case where one co-owner denies entry to other co-owner, right to sue for partition accrues to the co-owner who has been denied entry and each case shall have to be decided on its own facts.
45. In the case in hand, plaintiffs assert that they are they are co-owners and co-sharers in the property with constructive possession thereof. They specifically assert that it was in the first week of April, 2018 that D-1 and D-2 started raising illegal and unauthorized construction on the suit property which persuaded them to seek partition.
46. Now, it is settled law as held by the Hon'ble Supreme Court of India in a catena of judgments that the cause of action for partition of property is said to be a perpetually recurring one so long as the joint status subsists and the property remains unpartitioned by metes and bounds (see **Syed Shah Ghulam vs. Syed Shah Ahmed (1971) 1 SCC 597**).

47. In this case, admittedly, the suit property stands in the name of Shiv Nath Ojha and he died on 20.11.2006. Till he was alive, the said property would have to be taken to be the property of Shiv Nath Ojha only (this is keeping in mind the findings returned while deciding the issue which follow after this issue) and thus, there is no question of plaintiffs having any cause of action to sue for partition. He admittedly died intestate and only thereafter, plaintiffs or the other defendants could be said to have acquired a right in the property so as to give them a right to sue for partition. But, this accrual of right is not the same thing as accrual for cause to sue for partition. A right to seek partition can accrue to a given party and he may not feel the need to seek partition as there is no denial of right by the other co-sharer. Only when the right is threatened, a right to sue will accrue and not before that.
48. Now, D-1 and D-2 do not claim that they have been asserting their independent right on the property or to have committed any act which would have given the plaintiffs any cause to sue for partition from 2006 onwards till 2018. They do not plead any such act on their own account. It was argued that P-1 and P-2 themselves claim that they were living separately from the said defendants due to some disputes. The fact that P-1 or P-2 started living in a separate house cannot mean that they should have sued for partition soon after they started living separately. Till there is any denial of right of the plaintiffs in the suit property, there cannot be any accrual of right to sue. The phrase used in Article 113 of Limitation Act is '*when the right to sue accrues*'. The time period for limitation of 3 years can be taken to accrue only when there is a clear and

categorical denial of right of plaintiffs' share in the suit property. A stray act of denial of entry to one of the claimants (who as per Ex.X1 is P-1) or any purported theft in the suit property (as reported by P-2 as per Ex.PW1/9) may not be sufficient to lead to an inference that the right to sue would accrue to the said party or to the other parties (i.e. to P-1, P-2, D-3 and D-4 as the case may be) there and then.

49. In fact, in the judgment relied by the contesting defendants themselves i.e. **Nanak Chand** (*supra*), Hon'ble High Court of Delhi has taken note of the fact that in a suit for physical partition governed by Article 113 of Limitation Act, **the crucial question in such case is when a right to sue accrues.** In the said judgment, it has been held that one should not confuse severance of status with the allotment of shares. In the said case, court was dealing with the scenario where there was a severance of status but thereafter, a suit for partition was filed after much delay from the severance of status. It was a case where the properties were joint family properties. While dealing with the said factual scenario, the Hon'ble High Court held that under Article 113 of Limitation Act, 1963, '**the crucial question in such cases is when a right to sue accrues. There can be no right to sue until there is an accrual of the right asserted in the suit or its infringement or, at least a clear and unequivocal threat to infringement that right, by the defendant against whom the suit is instituted: Mst. Bolo vs. Mt. Koklem & others, AIR 1930 PC 270 (9). Where there are successive invasions or denials of a right, the right to sue under Article 120 (Article 113) accrues when the defendant has clearly and unequivocally threaten**

to infringe the right asserted by the plaintiff in the suit. Every threat by a party to such right, however, ineffective or innocuous it may be, cannot be considered to be a clear and unequivocal threat so as to compel him to file a suit. Whether a particular threat gives rise to a compulsory cause of action depends upon the question whether the threat effectively invades or jeopardizes the said right: Mst. Rukma Bai vs. Lala Laxmi Narayan AIR 1960 Supreme Court 335. The right to partition stands in existence in this case when the notice of severance and demand for partition was served, but right to sue did not accrue until the defendant infringed or threaten to infringe that right’.

50. A careful analysis of the above judgment would show that the Hon’ble High Court of Delhi has laid that not every infringement or threat by the other party would be sufficient that the plaintiff’s right for partition has been unequivocally threatened or infringed. It shall depend on the facts of a given case whether such right has effectively been invaded or jeopardized so that it can be concluded that *cause of action has accrued in favour of plaintiffs to now sue for partition.*
51. Now, if I consider the facts of the case and apply the above law relied upon by the D-1 and D-2 themselves, at best, they are asserting that since P-1 had written a police complaint Ex.X1 on 13.04.2015 to police, therefore, the right to sue accrued in favour of plaintiffs. I cannot agree with the said argument. As already noted in the said letter, it is not claimed by P-1 that D-1 and D-2 are denying his share in the property. He simply claims that D-1 and D-2 are trying to usurp his share and is denying him entry.

52. Similarly, the other letter Ex.PW1/9 also speak of some theft made by defendants in the almirah of P-2 kept at the suit property and does not specifically show that there is any denial of right to share in the suit property by the defendants.
53. No letter or any other document has been brought on record by D-1 and D-2 to show that they have been consistently denying the plaintiffs their right/share in the suit property so as to lead to a categorical conclusion that the said defendants are denying the said right and thus, the cause of action to sue for partition had accrued in favour of the plaintiffs.
54. Even if letter Ex.X1 or Ex.PW1/9 are read as it is, it would only mean that there was some infringement of right of P-1/P-2 qua the suit property. But, this cannot be considered as a clear and unambiguous threat to P-1 or the other share holders to compel him or them to sue for partition.
55. I am fortified in reaching to the said opinion from the pleadings of D-1 and D-2 themselves. It is pertinent to note that in para 5 of the plaint, plaintiffs have asserted that on 12.04.2018, D-1 and D-2 started breaking a wall on the ground floor of the suit property without his permission and when this was objected to by P-1, a scuffle broke out which led to a police complaint. Now, in response to the said assertion of the plaintiffs, it is pleaded by D-1 and D-2 in the relevant corresponding paragraph that *‘when the defendant no. 1 and 2 were doing some repairing work in their portion i.e. suit property then plaintiff no. 1 used to make false police complaint against the defendant no. 1 and 2 only to create*

unnecessary obstruction in their peaceful life. At point of time the defendant no. 1 and 2 in order to avoid any rift between the family members got compromised all issues as created by plaintiff no. 1 and his family.

56. This assertion of the contesting defendants show that when the matter was reported to police in April, 2018, even at that time the contesting defendants had compromised with the plaintiffs and this would lead to an inference that even till that time there was no cause of action which has accrued in favour of plaintiffs to sue for partition. Soon thereafter, in end of April, 2018, the suit was filed and thus, it is within time.
57. I may also note that in the entire written statement filed by the contesting defendants i.e. D-1 and D-2, there is no reference to any prior construction of 2015 and even the construction of 2018 and the eventual complaint arising therefrom is stated to have been compromised with the plaintiffs. Thus, in my humble opinion, if I consider the above, there was no clear or unequivocal denial of right of share of the plaintiffs in the suit property or of D-3 and D-4 so as to compel them to seek partition of the suit property. This denial appears to have accrued only in April, 2018 and thus, even if Article 113 of Limitation Act is applied to the facts of the case, the present suit cannot be said to be barred by time.
58. Plaintiffs herein assert that their right in the property was denied in first week of April, 2018 when some illegal construction was carried out by D-1 and D-2 and when the said defendants threatened to transfer/create third party interest in the suit property.

Thereafter, a legal notice was also served on the said defendants. This plea could have been defeated only on account of ouster and exclusion i.e. if the said defendants would have claimed ownership by way of adverse possession for more than a period of 12 years. The said plea is neither set up nor proved on record.

59. In *Nagabhushanammal (D) vs C. Chandikeswaralingam* AIR 2016 SUPREME COURT 1134, the Hon'ble Supreme Court of India has elaborately dealt with the plea of ouster and limitation. The relevant portion of the said judgment is reproduced hereinafter for easy reference:

“20. The other main defense in the suit is ouster and limitation. Ouster is a weak defense in a suit for partition of family property and it is strong if the defendant is able to establish consistent and open assertion of denial of title, long and uninterrupted possession and exercise of right of exclusive ownership openly and to the knowledge of the other co-owner.

21. This court in [Syed Shah Ghulam Ghouse Mohiuddin and others v. Syed Shah Ahmed Mohiuddin Kamisul Quadri and Ors](#)(1971) 1 SCC 597 held that possession of one co- owner is presumed to be on behalf of all co-owners unless it is established that the possession of the co-owner is in denial of title of co-owners and the possession is in hostility to co-owners by exclusion of them. It was further held that there has to be open denial of title to the parties who are entitled to it by excluding and ousting them.

22. A three judge bench of this court in [P.Lakshmi Reddy v. R.Lakshmi Reddy](#)[AIR 1957 SC 1789], while examining the necessary conditions for applicability of doctrine of ouster to the shares of co-owners, held as follows:

*“4. Now, the ordinary classical requirement of adverse possession is that it should be *nec vi nec clam nec precario*. (See *Secretary of State for India v. Debendra Lal Khan* [(1933) LR 61 IA 78, 82]). The possession required must be adequate in continuity, in publicity and in extent to show that it is possession adverse to the competitor. (See *Radhamoni Debi v. Collector of Khulna* [(1900) LR 27 IA 136, 140]). But it is well-settled that in order to establish adverse possession of one co-heir as against another it is not enough to show that one out of them is in sole possession and enjoyment of the profits of the properties. Ouster of the non-possessing co-heir by the co-heir in possession who claims his possession to be adverse, should be made out. The possession of one co-heir is*

considered, in law, as possession of all the co-heirs. When one co-heir is found to be in possession of the properties it is presumed to be on the basis of joint title. The co-heir in possession cannot render his possession adverse to the other co-heir not in possession merely by any secret hostile animus on his own part in derogation of the other co-heir's title. (See Cores v. Appuhamy [(1912) AC 230]). It is a settled rule of law that as between co-heirs there must be evidence of open assertion of hostile title, coupled with exclusive possession and enjoyment by one of them to the knowledge of the other so as to constitute ouster. This does not necessarily mean that there must be an express demand by one and denial by the other.”

23. This Court in *Vidya Devi v. Prem Prakash* (1995) 4 SCC 496 held that:

“28. ‘Ouster’ does not mean actual driving out of the co-sharer from the property. It will, however, not be complete unless it is coupled with all other ingredients required to constitute adverse possession. Broadly speaking, three elements are necessary for establishing the plea of ouster in the case of co-owner. They are (i) declaration of hostile animus, (ii) long and uninterrupted possession of the person pleading ouster, and (iii) exercise of right of exclusive ownership openly and to the knowledge of other co-owner. Thus, a co-owner, can under law, claim title by adverse possession against another co-owner who can, of course, file appropriate suit including suit for joint possession within time rescribed by law.”

60. In this case, even though D-1 and D-2 have set up a plea of oral partition, in the later part of this judgment, the said plea has been found to have not been established. Thus, the suit property was the property of late Shiv Nath Ojha who died on 20.11.2006. The partitioned opened only thereafter and there is no plea by the contesting defendants that they held the suit property with necessary *animus* or had uninterrupted possession or they exercised right of exclusive ownership openly and to the knowledge of plaintiffs.

61. In fact, the letter being relied upon by the defendants i.e. Ex.X1

would show that plaintiffs were asserting their right of share over the suit property and were objecting to any construction being carried out by D-1 and D-2. The said defendants have not pleaded or brought on record any evidence to show ouster of the plaintiffs from the suit property and in light of ratio of **Sayed Shah Ghulam** (*supra*) the possession of one co-owner of the property has to be taken to be possession on behalf of all the co-owners. Since there is no denial of title of co-owners or possession which is hostile to the other co-owners for a period of more than 12 years, it cannot be said that plaintiffs could not sue for partition.

62. Howsoever I may consider the plea of limitation being taken by the contesting defendants, in my humble opinion, the present suit cannot be said to be hit by limitation either under Article 113 of Limitation Act or otherwise under Article 65 of the said Act.
63. Hence, the issue is decided in favour of plaintiffs and against D-1 and D-2.

Issue No. 3

3. *Whether the present suit is bad for non-joinder of the necessary parties ?*
OPD

64. The onus of this issue was of D-1 and D-2 to discharge. No evidence was led before this court to demonstrate how the suit is bad for non-joinder of any necessary party. Nothing was argued or brought to my notice as to which necessary party has been left out by the plaintiffs so as to lead to failure of the present suit.

65. Thus, in the absence of any evidence, the issue under consideration is decided against D-1 and D-2.

Issue No. 4, 5 & 6

4. *Whether the plaintiff is entitled for a preliminary decree of partition, in respect of the property bearing No. T-305, Gali No.7, Gautam Puri, Delhi-53, as claimed in the plaint ? OPP*
5. *Whether the plaintiff is entitled for a decree of permanent injunction, as claimed in the plaint ? OPP*
6. *Whether the plaintiff is entitled for a final decree for partition of the suit property by metes and bounds ? OPP*

66. As already noted during narration of facts, it is admitted position between the parties that the suit property is in the name of late Shiv Nath Ojha. It is also an admitted position that he died interstate on 20.11.2006.
67. Now, the only defence being set up by the contesting defendants i.e. D-1 and D-2 is that late Shiv Nath Ojha, during his lifetime, had carried out an oral partition of all his three immovable properties as described in Table-1 (during narration of facts) and in pursuance thereto, the suit property came to the share of D-1 and D-2. The said oral partition is stated to have taken place in mid-January, 2000.
68. Additionally, it is asserted by D-1 and D-2 that late Shiv Nath Ojha was running a proprietorship firm in the name of M/s Ojha & Company; this business was later joined by his sons; that this business and house affairs were managed by Shiv Nath Ojha as *karta*; and all earnings from the business were borne by Shiv Nath Ojha. They further assert that all properties either in the name of

Shiv Nath Ojha or their family members belong to joint family properties which have joint and common ownership.

69. Counsel for the contesting defendants i.e. D-1 and D-2 argued that since the suit property was purchased from the funds of M/s Ojha & Company, therefore, all the three properties described in Table-1 were joint properties (irrespective of the name of the family member under which the said property stands) and in pursuance to the oral partition of 2000, the suit property was given to D-1 and D-2.
70. The said plea or evidence of D-1 and D-2 (who stepped in the witness box as D1W1 and D2W1) is not sufficient to prove on record that all the properties described in Table-1 above are joint family properties (irrespective of the name of the family member under which the said property stands). This is because, D-1 and D-2 themselves claim that M/s Ojha & Company **was a proprietorship business of late Shiv Nath Ojha.** If the same is true and even if some of his sons joined him in the said business later, it shall not mean that the properties being purchased by Shiv Nath Ojha shall take the colour of joint family properties. I may note that the evidence of D-1 and D-2 is lacking any material particulars to show as to when they joined the business of their father or the said proprietary business of their father was eventually treated as a joint family business. The assertion of the said defendants is, at best, bald and vague.
71. Before any property can be treated to be a joint family property, it is necessary for the party asserting this fact to prove by clear and

cogent evidence that the person in whose name the same property stands has thrown the said individual property into the common hotch potch so that the said property would become a joint property. If a given property stands in the individual name of a joint family member and it is asserted that the purchase money for the same came from the common family nucleus and therefore, the said property is a joint family property, clear and cogent evidence on that count should be brought on record by the party who so asserts.

72. It is settled law that there is a presumption that a family is joint **but there is no presumption that any property whether movable or immovable, held by a member of a joint Hindu Family, is joint family property. The burden lies upon the person who asserts that a particular property is joint family property to establish that fact. But, if he proves that there was sufficient joint family nucleus from and out of which the said property could have been acquired, the burden shifts to the member of the family setting up the claim that it is his personal property to establish that the said property has been acquired without any assistance from the joint family property.** (see *Mst. Rukma Bai vs. Lala Laxmi Narayan & others* AIR 1960 SC 335).
73. Thus, before the three properties described in Table-1 are treated as joint family property, the onus was on D-1 and D-2 to establish, as a fact, by cogent and clear evidence that each of the three properties is a joint family property or that there was a sufficient joint family nucleus from and out of which the said property could have been acquired.

74. But, in this case, save and except the bald and oral assertion of D-1 and D-2, there is no evidence to establish as a fact that there existed any sufficient joint family nucleus from and out of which any of the three properties were purchased so that each of the three properties can be treated to be joint family properties. **In fact, as per the pleaded case of D-1 and D-2, Shiv Nath Ojha was running a proprietorship concern and from the said business he purchased the suit property. If the same is true, the suit property shall have to be taken as his self-acquired property only.**
75. The assertion of D-1 and D-2 that the sons of Shiv Nath Ojha joined his business is not sufficient to treat that the said proprietary business of Shiv Nath Ojha became a joint family business so that the money earned from the said business would then form the nucleus to purchase the suit property or the other properties which then would make the said other properties as joint family properties.
76. In fact, save and except the bald assertion of the contesting defendants, there is no particulars of the amount of money being earned from the business run by Shiv Nath Ojha; or any documents to suggest the amount of earning; or to show that the said firm i.e. M/s Ojha & Company was run as a joint family business; or to suggest that the funds from the said business formed the nucleus for purchase of each of the three properties described in Table-1; or to suggest that Shiv Nath Ojha (the original owner of property no. 1/suit property and property no. 2 described in Table-1) or P-1 (in whose name property no. 3 described in Table-1 stands) had thrown each of the said properties in the common hotch potch so

as to make them joint family properties.

77. In fact, as per the pleaded case of D-1 and D-2, the suit property was purchased by Shiv Nath Ojha on 12.01.1973. It is not clear from the record as to when the business under the proprietorship firm M/s Ojha & Company was started by late Shiv Nath Ojha. There is no evidence to suggest that the suit property was ever brought into the common hotch potch by Shiv Nath Ojha. Thus, it cannot be concluded from the evidence on record that the suit property which was purchased in the year 1973 (as per the pleaded case of D-1 and D-2) was purchased from the money earned by Shiv Nath Ojha by running his proprietorship firm. It cannot be concluded from the record that this firm was run as a joint family business. In fact, D-1 and D-2 themselves claim that M/s Ojha & Company was a proprietorship concern of Shiv Nath Ojha and even if it is presumed that this proprietorship concern supplied money for the purchase of suit property, in the absence of any evidence to the contrary, the said property shall still be self-acquired property of Shiv Nath Ojha.
78. Thus, in my humble opinion, D-1 and D-2 have miserably failed to bring on record even a single shred of evidence to even prima facie show that the suit property or any of the other two properties are joint family properties. Thus, the suit property has to be treated as the self-acquired property of Shiv Nath Ojha as the same admittedly stands in his name.
79. If that be the case, the suit property is liable to be partitioned. Admittedly, Shiv Nath Ojha died intestate in 2006 and thus, the

succession opened on the death of Shiv Nath Ojha on 20.11.2006. This shall mean that each of the parties to the suit are entitled to 1/6th share each in the suit property.

80. This brings me to the other argument of the contesting defendants. They claim that there was an oral partition of the suit property in mid-January, 2000. This was during the lifetime of Shiv Nath Ojha. Now with the suit property being held to be the self-acquired property of Shiv Nath Ojha, there is no question of he orally partitioning it so as to divest his title in his own property and give the same orally to D-1 or D-2. If Shiv Nath Ojha wanted to give the suit property to the said defendants, in law, the same was only possible by way of a registered written document either in the nature of gift deed or any other document recognized in law. Even if it is presumed, for the sake of argument, that any meeting between Shiv Nath Ojha and his sons had taken place in January, 2000 and Shiv Nath Ojha agreed to give the suit property to D-1 and D-2, still, in law, an oral transfer shall not effect any legal transfer of right, title or interest in the suit property to the said defendants.
81. In January, 2000, the children of Shiv Nath Ojha and even his wife (who are parties to this suit) had a mere hope of succeeding to the suit property (*spes successionis*) and the said parties could not have agreed, in law, that the suit property on the death of Shiv Nath Ojha would go to D-1 and D-2. At that time, neither of the parties to the suit had any crystallized right in their favour and thus, they could not have agreed to any settlement qua the suit property.

82. Counsel for D-1 and D-2 had submitted, during arguments, that a joint family property could be settled by an oral settlement by the co-owners. The said position of law is not applicable to the facts of the present case in as much as the suit property herein is not proved to be a joint family property and was a self-acquired property of Shiv Nath Ojha. Thus, there could not have been any oral settlement *interse* Shiv Nath Ojha and his children.
83. There is admittedly no registered written document in favour of D-1 and D-2 based on which Shiv Nath Ojha gave the suit property to the said defendants. If that be the case, the suit property continued to be the property of Shiv Nath Ojha till his death on 20.11.2006 and thereafter, the same passed in equal share, by way of intestate Hindu Law of Succession to the 6 surviving class-I legal heirs of Shiv Nath Ojha.
84. Thus, in effect, the suit property is liable to partition with each of the 6 legal heirs i.e. Om Prakash Ojha/P-1 (son); Ram Murti Ojha/P-2 (wife); Mithlesh Ojha/D-1 (son); Devender Ojha/D-2 (son); Suman Sharma/D-3 (daughter); and Kiran Sharma/D-4 (daughter) entitled to 1/6th share each in the suit property.
85. Now, Ram Murti Ojha/P-2 (wife of Shiv Nath Ojha) died on 08.07.2025 during the pendency of this suit. She is not stated to have left behind any Will/testament qua her share in the suit property in favour of any of her 5 children (or the legal heirs who claim under the said children). No such Will has been produced before this court after her death. This shall mean that her 1/6th share would then equally get distributed between her 5 children i.e.

P-1, D-1 to D-4. This would mean that the share of the said 5 children would then increase and their share in the suit property would now become 1/5th share each.

86. Again, P-1 and D-1 (i.e. two of the sons of Shiv Nath Ojha and Ram Murti Ojha) have also expired on 21.12.2022 and 03.09.2025 respectively. Their respective class-I heirs have also come on record and thus, the 1/5th share each which shall fall in the hands of P-1 and D-1 would now be taken by the said class-I legal heirs of P-1 and D-1.
87. Resultantly, the surviving plaintiff i.e. P-1 (through his legal heirs) is entitled to a preliminary decree of partition with the said P-1, D-1 (through his legal heirs) to D-4 being entitled to share in the suit property in the manner described in Table-3 below:

TABLE-3		
Suit property bearing No. T-305, Gali No. 7, Gautam Puri, Delhi-53 measuring 130 square yards.		
S. No. [A]	Legal heirs of Shiv Nath Ojha [B]	Share in the suit property. [C]
1.	Om Prakash Ojha (son)/P-1 through LRs: (i) Munni Ojha-wife (ii) Meenu Ojha-daughter (iii) Lucky Ojha-son (iv) Akash Ojha-son (v) Chinky Ojha-daughter	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Om Prakash Ojha on the death of Shiv Nath Ojha and the remaining portion would come to him from his mother/Ram Murti Ojha on her death. Thus, the entire area of 26 square yards would, on his death, fall in the hands of his class-I legal heirs detailed in column [B] of this Table.
2.	Ram Murti Ojha (wife)/P-2.	She died on 08.07.2025 and thus, her 1/6th share out of 130 square yards would get equally distributed between her 5 children or persons claiming through her said children.
3.	Mithlesh Ojha (son)/D-1 through LRs: (i) Poonam Ojha-wife (ii) Ricky Ojha-son (iii) Rohit Ojha-son (iv) Reenu Ojha-daughter	Area of 26 square yards to be taken together as legal heirs of Mithlesh Ojha. Out of this 26 square yards share, 21.66 square yards came to Mithlesh Ojha on the death of Shiv Nath Ojha and the remaining portion would come to him from his mother/Ram Murti Ojha on her death. Thus, the entire area of 26 square yards would, on his death, fall in the hands of his class-I legal heirs detailed in column [B] of this Table.

4.	Devender Ojha(son)/D-2	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Devender Ojha on the death of Shiv Nath Ojha and the remaining portion would come to him from his mother/Ram Murti Ojha on her death.
5.	Suman Sharma (daughter)/D-3	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Suman Sharma on the death of Shiv Nath Ojha and the remaining portion would come to her from her mother/Ram Murti Ojha on her death.
6.	Kiran Sharma (daughter)/D-4	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Kiran Sharma on the death of Shiv Nath Ojha and the remaining portion would come to her from her mother/Ram Murti Ojha on her death.

88. Accordingly, let a preliminary decree of partition be drawn.
89. The issue of drawing up of final decree can only be decided after inquiry as to how the suit property can be divided by metes and bound and thus, the decision on the said issue is deferred.
90. Plaintiffs have also sought a decree of permanent injunction seeking to restrain the defendants or any persons claiming under them from selling, transferring, alienating, parting with possession or creating any third party interest in the suit property. They also want that defendants be also restrained from demolishing or making any additional/alteration or any construction in the suit property.
91. Since now parties as detailed in Table-3 above have been found to have a share in the property, defendants are liable to be restrained from creating any third party interest or selling, transferring, alienating, parting with possession of the suit property till the property is divided by metes and bounds.

92. As far as the question of restraining the defendants from demolishing or making any additional/alteration or any construction in the suit property is concerned, the present structure of the property is required to be protected till its division by metes and bound. Thus, defendants are also liable to be restrained from demolishing or making any additional/alteration or any construction in the suit property till its division by metes and bound.
93. Accordingly, all the issues under consideration are decided in favour of the plaintiffs and against the defendants.

Relief

94. In view of the findings returned above, P-1 (through LRs) is held entitled to a preliminary decree of partition qua suit property with parties being entitled to shares described in Table-4 below:

TABLE-4		
Suit property bearing No. T-305, Gali No. 7, Gautam Puri, Delhi-53 measuring 130 square yards.		
S. No. [A]	Legal heirs of Shiv Nath Ojha and Ram Murti Ojha [B]	Share in the suit property. [C]
1.	Om Prakash Ojha (son)/P-1 through LRs: (i) Munni Ojha-wife (ii) Meenu Ojha-daughter (iii) Lucky Ojha-son (iv) Akash Ojha-son (v) Chinky Ojha-daughter	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Om Prakash Ojha on the death of Shiv Nath Ojha and the remaining portion would come to him from his mother/Ram Murti Ojha on her death. Thus, the entire area of 26 square yards would, on his death, fall in the hands of his class-I legal heirs detailed in column [B] of this Table.
2.	Mithlesh Ojha (son)/D-1 through LRs: (i) Poonam Ojha-wife (ii) Ricky Ojha-son (iii) Rohit Ojha-son (iv) Reenu Ojha-daughter	Area of 26 square yards to be taken together as legal heirs of Mithlesh Ojha. Out of this 26 square yards share, 21.66 square yards came to Mithlesh Ojha on the death of Shiv Nath Ojha and the remaining portion would come to him from his mother/Ram Murti Ojha on her death. Thus, the entire area of 26 square yards would, on his death, fall in

		the hands of his class-I legal heirs detailed in column [B] of this Table.
3.	Devender Ojha(son)/D-2	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Devender Ojha on the death of Shiv Nath Ojha and the remaining portion would come to him from his mother/Ram Murti Ojha on her death.
4.	Suman Sharma (daughter)/D-3	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Suman Sharma on the death of Shiv Nath Ojha and the remaining portion would come to her from her mother/Ram Murti Ojha on her death.
5.	Kiran Sharma (daughter)/D-4	Area of 26 square yards to be taken together as legal heirs of Om Prakash Ojha. Out of this 26 square yards share, 21.66 square yards came to Kiran Sharma on the death of Shiv Nath Ojha and the remaining portion would come to her from her mother/Ram Murti Ojha on her death.

95. P-1 (through LRs) is also held entitled to a decree of permanent injunction thereby restraining the defendants from creating any third party interest or selling, transferring, alienating, parting with possession of the suit property till the suit property is divided by metes and bounds.
96. Defendants are also restrained from demolishing or making any additional/alteration or any construction in the suit property till its division by metes and bound.
97. Parties to bear their own cost.
98. Let a preliminary decree sheet be prepared accordingly. Site plan Ex.PW1/1 to form part of decree.

**Announced in the open court
on 27.03.2026**

**Aashish Gupta
District Judge-01, North-East
KKD Courts, Delhi**