

01-04-2026

Present: Plaintiff in person
Sh. Parikshit Mahipal, advocate for plaintiff through VC
Sh. Ankit Dixit and Sh. Tushar Tyagi, advocates for defendants

Vide this order this court shall proceed to dispose of the application u/o 39 Rules 1&2 r/w 151 of CPC moved on behalf of plaintiff.

It is submitted on behalf of plaintiff that the plaintiff was in possession of the suit property i.e. H. No. 1513, First Floor, Gali Arya Samaj, Sita Ram Bazar, Delhi-110006 till 16-06-2020. However, on 16-06-2020, he was dispossessed from there without due process of law by the defendants. The plaintiff had called at 100 number and PCR came. However, by that time, the defendants had left the spot. It is, therefore, prayed that the defendants be restrained from creating any third party interest in the suit property.

On the other hand, the application is strongly opposed on behalf of defendants on the ground that the plaintiff was only a gratuitous licensee of the suit property and he has left the suit property on his own on 16-06-2020. It is further submitted that application is not maintainable as per the principle of resjudicata as similar application has already been decided in connected suit bearing no. 330/19 vide order dated 15-07-2020. It is further

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submitted that order dated 15-07-2020 also reflects that plaintiff is not in possession of any document in respect of his claim regarding possession in the suit property.

This court has heard the arguments and perused the record.

It is not in dispute that one suit bearing no. 330/19 filed on behalf of plaintiff is also pending disposal which, inter-alia, includes the suit property involved in the present suit as well. One application u/o 39 Rules 1&2 of CPC is still pending disposal in suit no. 330/19. Since it is an admitted fact that the plaintiff was in possession of the suit property, a *prima-facie* case is made out in favour of the plaintiff. Whether or not the possession of the plaintiff in the suit property was gratuitous or otherwise is a matter of trial and evidence. Perusal of order dated 15/07/2020 reveals that by the said order, one application for restoration of possession of the suit property moved on behalf of the plaintiff herein was disposed of. The matter in issue in the present application is not directly and substantially in issue in the application u/o 39 Rule 3 of CPC which was disposed of vide order dated 15-07-2020. Thus, the present application is not barred by the principle of resjudicata. Since the plaintiff is presently residing in DUSIB shelter home and as such, he is not having fixed place of abode, the balance of convenience also lies in favour of the plaintiff and irreparable injury is also likely to be caused to him if the relief sought in the present application is not granted to him. Accordingly, the defendants, their associates, heirs, etc. are hereby restrained from creating any third party interest in the suit property till disposal of the present suit or till

further orders. In terms of the above observation, application u/O. 39 Rule 1 and 2 CPC moved on behalf of plaintiff is hereby allowed.

The parties are directed to file their respective affidavits of admission/ denial of documents on or before NDOH with advance copy to each other.

Put up for admission/ denial of documents and framing of issues on 11-05-2026.

(PANKAJ ARORA)

District Judge-16, Central District,
Tis Hazari Courts, Delhi/01-04-2026