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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 147/2026 & I.A. 8080/2026, I.A. 8081/2026**

HARSH DEWAN

.....Plaintiff

Through: Mr. Rahul Malhotra, Mr. Rishu Kant Sharma, Ms. Padamja Sharma and Mr. Aryan Jha, Advocates
Mob: 9871133184
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versus

PREM KUMAR CHAUDHARY AND ORS.Defendants

Through: Mr. Pawanjit Singh Bindra, Sr. Advocate with Ms. Madhu Sudan, Mr. Vikhyat Oberoi, Mr. Ankit Kakkar, Ms. Shreya V. Mehra, Mr. Shivam Prakash, Ms. Deepti Mehra, Mr. Fazal Haroon, Mr. Ravi Sharma, Ms. Nishita Gupta, Advocates for D-1
Mob: 9971423535

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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25.03.2026

I.A. 8080/2026

1. The present application has been filed on behalf of defendant no. 1 under Order XXXIX Rule 4 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC"), seeking vacation of the *ex-parte ad interim* order dated 17th February, 2026, passed by this Court.
2. Learned Senior Counsel appearing for the defendant no. 1 submits that plaintiff is the nephew of defendant no. 1, i.e., son of sister of defendant



no. 1.

3. He submits that parents of the parties had one son, i.e., defendant no. 1 and his three sisters. He submits that as per the Will executed by the father of defendant no. 1 and grandfather of the plaintiff, the front portion of the property has been bequeathed in favour of defendant no. 1, while the rear portion of the property has been bequeathed in favour of the plaintiff.

4. He further submits that as per the Memorandum of Understanding (“MoU”) entered between the family, in case of re-construction of sale of the property, 60% of the sale proceeds shall inure to the benefit of defendant no. 1 and 40% shall inure to the benefit of the plaintiff.

5. Learned Senior Counsel appearing for the defendant no. 1 further submits that the plaintiff as well as the defendants, are already in possession of their respective portions as per the Will and that the property already stands partitioned.

6. Learned Senior Counsel appearing for defendant no. 1 has further drawn the attention of this Court to *Document no. 4*, filed along with the defendants’ document to show that the gate in question, *qua* which the present suit has been filed, to state that obstruction is being created to the ingress and egress of the plaintiff, exists since at least from 15th April, 2018.

7. He further submits that the gate in the driveway has been in existence for a long time. He, however, submits that the said gate is never locked and remains open. He submits that the entry and exit to the house is from the front portion and that the plaintiff and his family, also enter from the front portion of the house to go towards the rear portion of the house, which is occupied by them.

8. Learned Senior Counsel appearing for the defendant no. 1 further



submits that the defendants have never created any obstruction to the ingress and egress of the plaintiff and his family members. He further submits that the defendants shall not create any obstruction.

9. He further draws the attention of this Court to the order dated 20th March, 2026 passed by this Court to submit that the photograph which is reproduced therein, is only with respect to small quantity of material for the purposes of carrying out repair of parapet of the wall in the portion occupied by defendant no. 1, as the same needed repair.

10. Issue notice. Notice is accepted by learned counsel appearing for the plaintiff.

11. Considering the submissions made before this Court, it is directed that the plaintiff and his family members, as well as defendant no. 1 and his family members, shall not create any obstruction to each other's ingress and egress.

12. Further, in case the defendant no. 1 wishes to carry out any repair work in his portion of the property, the same can be carried out.

13. However, the defendant no. 1 and his family members shall ensure that no construction material is kept in a manner so as to obstruct the ingress and egress of the plaintiff and his family members.

14. With the aforesaid directions, the present application is disposed of.

I.A. 8081/2026

15. The present application has been filed on behalf of defendant no. 1 under Order XXXIX Rules 1 and 2 of the CPC with prayer from restraining the plaintiff and his family members from interfering in the peaceful use and enjoyment of the suit property.

16. In view of the directions passed by this Court in *I.A. 8080/2026*, the



parties are held bound by the directions of this Court.

17. Noting the aforesaid, the present application is disposed of.

CS(OS) 147/2026

18. The present suit has been filed for partition of the suit property, i.e., property bearing no. *B-30, Kailash Colony, New Delhi-110048*.

19. In view of the submissions made by learned Senior Counsel appearing for defendant no. 1 that defendant no. 1 as well as the plaintiff are in possession of their respective portions, as per the Will and that the property already stands partitioned, this Court is of the view that the parties being family members can resolve the issue in this regard.

20. Accordingly, with the consent of the parties, the matter is referred to Delhi High Court Mediation and Conciliation Centre, to be listed before a Senior Mediator on 06th April, 2026.

21. List before the Court on 06th May, 2026.

22. A copy of this order be sent to Delhi High Court Mediation and Conciliation Centre, forthwith.

MINI PUSHKARNA, J

MARCH 25, 2026

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