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

+ **FAO 106/2025 & CM APPL. 22878/2025**

NAZIR AHMED

.....Appellant

Through: Mr. Jasraj Singh Chhabra &
Mr. Arjun Dewan, Advs.

versus

JALIL AHMED & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **21.04.2025**

CM APPL. 22879/2025

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

FAO 106/2025 & CM APPL. 22878/2025

3. This appeal has been preferred by the appellant under Section 104 read with Order XLIII Rule (1)(r) & (2) of the Code of Civil Procedure, 1908 thereby assailing the impugned order dated 10.01.2025 passed by the learned District Judge-02, Central District, Tis Hazari Courts, whereby the appellant, who is the defendant in the suit, has been restrained from creating any third-party rights in respect of the subject property.

4. No one is present for the respondents despite sending advance notice.

5. Learned counsel for the appellant has pointed out that his father had executed a registered Gift Deed dated 21.08.2018 in his favour and therefore, the suit for partition moved on behalf of the respondents/plaintiffs is not maintainable.



6. Let notice of the present appeal be issued afresh to the respondents by all permissible modes.

7. Having gone to the impugned order dated 10.01.2025, this Court is, *prima facie*, of the opinion that in the light of the fact that the appellant claims to be in possession of the subject property in his own rights by virtue of a registered Gift Deed dated 21.08.2018 executed by this father in his favour, there was no *prima facie* case in favour of the respondents/plaintiffs.

8. Learned counsel for the appellant submits that the appellant undertakes not to dispose of the property during the pendency of this case.

9. In view of the aforesaid statement, the impugned order dated 10.01.2025, whereby a restraint order has been passed against the appellant, be kept in abeyance during the pendency of the appeal.

10. Renotify on 08.09.2025.

DHARMESH SHARMA, J.

APRIL 21, 2025
Ch/Ss