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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 286/2025**

NEENA KAPOORPlaintiff
Through: Mr. Vaibhav Dang, Advocate

versus

VISHNU KHANNA & ANR.Defendants
Through: None.

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER
07.05.2025

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IA No. 11405/2025

1. This is an application under Section 149 read with Section 151 of the Code of Civil Procedure, 1908 ('CPC') filed by the plaintiff seeking extension of time for payment of deficient Court fee as well as one-time process fee.

2. Learned counsel for the plaintiff states that the Court fees as well as process fee stands paid, the relief sought in the captioned application has become infructuous.

3. Accordingly, this application stands disposed of.

CS(OS) 286/2025 and IA No. 11407/2025 (for Appointment of Receiver)

4. The present suit has been filed by the plaintiff seeking a declaration that the plaintiff is the sole legal owner and beneficiary of the property being First Floor (Rear Flat), ad-measuring 900 sq. ft. (approx.) in the residential building situated at Plot No. E-14/7, Vasant Vihar, New Delhi – 110057 ['suit property']. The plaintiff is further seeking a decree of possession and

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permanent injunction qua the suit property in favour of the plaintiff and against the defendants.

5. Let the plaint be registered as a suit. Summons be issued to the defendants by all permissible modes on filing of process fee. Affidavit of service be filed within two (2) weeks.

6. The summons shall indicate that the written statement(s) must be filed within thirty days from the date of receipt of the summons. The defendants shall also file affidavit(s) of admission/denial of the documents filed by the plaintiff, failing which the written statement(s) shall not be taken on record. In addition, through counsel appearing for the defendants in TEST CAS. 21/2022 titled **Vishnu Khanna and Another v. State of NCT of Delhi**, which is pending adjudication before this Court.

7. The plaintiff is at liberty to file replication(s) thereto within thirty days after filing of the written statement(s). The replication(s) shall be accompanied by affidavit(s) of admission/denial in respect of the documents filed by the defendants, failing which the replication(s) shall not be taken on record.

8. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.

9. Any party seeking inspection of documents may do so in accordance with the Delhi High Court (Original Side) Rules, 2018.

10. List before the learned Joint Registrar (J) for completion of pleadings and marking of exhibits on **27.08.2025**.

11. List before the Court on **20.05.2025**.

IA No. 11406/2025

12. This is an application under Order 39 Rules 1 and 2 CPC filed by the

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plaintiff seeking an order against the defendants, thereby restraining the defendants from creating any third-party rights in the suit property.

13. It is stated in the plaint that Plot No. E-14/7, Vasant Vihar, New Delhi ('Plot No. E-14/7') was allotted to late Sh. Krishan Murari Sharma i.e., the plaintiff's father.

14. It is stated that late Sh. Krishan Murari Sharma entered into a collaboration agreement dated 05.09.1988 with one M/s. Saraswati Builders for re-development of Plot No. E-14/7. It is stated that the said collaboration agreement was terminated in the year 1989 and the owner as well as the developer were referred to arbitration, which culminated in an arbitral award dated 27.09.2005. It is stated that as per the final award it was held construction undertaken by the developer under the said collaboration agreement was illegal and unauthorized. It is stated that the said arbitral award dated 27.09.2005 had become final as it was not challenged by the builder.

15. It is stated that plaintiff's father passed away on 17.03.1994. It is stated that thereafter the plaintiff along with her mother, Smt. Krishna Sharma applied to Delhi Development Authority ('DDA') for mutation of the Plot No. E-14/7 in the favour of Smt. Krishna Sharma which was allowed on 19.10.2012. It is stated that plaintiff and her mother Smt. Krishna Sharma became the lawful owners of suit property. It is further stated that Smt. Krishna Sharma died on 29.11.2018 and the share of Smt. Krishna Sharma in the suit property devolved upon the plaintiff herein and in this manner w.e.f. 29.11.2018, the plaintiff became the sole and absolute owner of the suit property.

16. It is stated that however, one Dr. Pushpa Khanna illegally and

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unauthorizedly occupied the rear flat i.e., the suit property. It is stated that legal proceedings initiated by Dr. Pushpa Khanna for asserting rights qua the suit property during her lifetime, were either dismissed or withdrawn. It is stated that Dr. Pushpa Khanna had relied upon an unregistered Agreement to Sell executed by the builder, M/s. Saraswati Builders in her favour to justify her possession. It is stated no portion of the sale consideration was ever paid to late Sh. Krishan Murari Sharma. It is stated that M/s. Saraswati Builders was not authorized to create any right in favour of any third party in Plot No. E-14/7.

17. It is stated that Dr. Pushpa Khanna passed away on 16.07.2021 and the plaintiff has recently learned that defendant no. 1 (i.e., the nephew of Dr. Pushpa Khanna) has filed a testamentary case bearing TEST CAS. 21/2022 wherein Letters of Administration have been prayed for with respect to the suit property. The attention of this Court is drawn to order dated 20.03.2025 passed in the said proceedings.

It is stated that defendant no. 1 herein has also filed CS(OS) 690/2022 and that an interim order dated 06.01.2023 has been passed therein.

18. This Court has considered the submissions of the plaintiff.

19. In view of the admitted title of late Shri Krishan Murari Sharma and mutation order dated 19.10.2012 issued by the DDA, the plaintiff has a *prima facie* case in her favour. Moreover, considering the order dated 20.03.2025 passed in TEST CAS. 21/2022, this Court is persuaded that the balance of convenience is in favour of the plaintiff.

20. Accordingly, until the next date of hearing, the defendants are retrained from creating any third-party interest in the suit property or parting with possession of the suit property.

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21. Issue notice. Affidavit of service be filed within two (2) weeks.
22. Reply to the application be filed within four (4) weeks. Rejoinder thereto, if any, be filed within three (3) weeks thereafter.
23. Provisions of Order XXXIX Rule 3 CPC be complied with within one (1) week from today.
24. List before the learned Joint Registrar (J) for completion of pleadings on **27.08.2025**.
25. List before the Court on **20.05.2025** in the Supplementary list.
26. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

MAY 7, 2025/SV/MG

Click here to check corrigendum, if any

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