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

+ **CS(OS) 433/2025 & I.A. 16058-16059/2025**

SMT. ANJU BABBAR

.....Plaintiff

Through: Mr. Anil Kumar Airi, Sr. Adv. with
Mr. Pranaya Goyal, Ms. Sadhna
Sharma, Mr. Chiranjivi Sharma and
Ms. Nehal Gupta, Advs.

Mr. P.S. Singh, CGSC with
Ms. Minakshi Singh, Mrs. Annu
Singh, Mr. Rajnesh Kumar Sharma,
Advs. and Mr. Arbind, Sub-Inspector
(P.S. Desh Bandhu Gupta Road,
Delhi) on behalf of SHO.

versus

SH. PRABHAT KATHURIA & ORS.

.....Defendants

Through: Mr. Dhruv Chawla, Ms. Meenakshi
Bhatia, Mr. Lalit Kumar, Mr. Vaibhav
Kush, Mr. Nitin Kumar, Mr. I.J.
Sharma and Ms. Esha Goyal, Advs.
for D-1, D-2 and D-3 along with
defendant nos. 1, 2 and 3 in person.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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17.07.2025

I.A. 16058/2025

1. This is an order being passed in continuation of order dated 10.07.2025.
2. The SHO, Police Station Desh Bandhu Gupta Road, Delhi has filed the status report wherein relevant Paragraphs No. 1, 2, 3 and 6, which read as under: -

“1. Initially the property number 59/24, New Rohtak Road, Karol Bagh,



Delhi (area 522 Sq.Yrds) was in the name of Late Roshan Devi. After her death, this property was transferred in the name of her son Desh Kumar (age 82 yrs.) and daughter Mohini Anand (age 85 yrs.) through mutation. Now, in this house, Sh. Desh Kumar, Smt. Mohini Anand, Prabhat Kathuria (age 57 yrs.) S/o Desh Kumar, Seema Kathuria (age 58 yrs.) D/o Sh. Desh Kumar, Nagma W/o Sh. Prabhat Kathuria, Anju Babbar (age 60 yrs.) D/o Sh. Desh Kumar and Sunil Babbar (age 62 yrs.) husband of Anju Babbar are residing. Prabhat Kathuria lives in Mumbai also and his wife Nagma is also living in Mumbai. Presently she is also living in the above said house.

2. Plaintiff's daughter Sona (age 34 yrs.) was also residing here but now she is married and is living in her matrimonial house in Subhash Nagar, Delhi and plaintiff's son Karan (age 34 yrs.) is presently settled in abroad.

3. As per enquiry, after marriage, the plaintiff Smt. Anju Babbar was under financial crisis and she was not having home to live Hence, she along with her husband Sunil Babbar, son Karan and daughter Sona was given one room in above house to live by her father in the year of 2009-10. Hence petitioner is living in this house presently with her husband Sunil Babbar as her daughter is married and son is living in abroad. Petitioner was living in a room given to her with kitchen and wash room being used jointly with her father and other family members. Also due to cordial relations between the family, petitioner was using the entire house jointly.

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6. On this complaint, an enquiry has been conducted and it has been found that as the plaintiff's relatives arrived on 03.07.2025, defendants called police several times and reported that they have apprehension from those two ladies. IO went to the spot and found that nobody was confined. Rather the defendants were expressing their apprehension being senior citizens. Both the parties were alleging each other. The plaintiff left the house on 04.07.2025 by her own and her husband was already out of this house since the past 2-3 days. Now the plaintiff's room is locked by defendant Prabhat Kathuria. In this regard, he stated that he locked his room so that his father may not enter this room as due to old age, his father is not in his full senses. Defendants have also put locks on both entry gates of the premises. However, they say that they will not stop plaintiff to enter her room as and when she comes. As the plaintiff or her husband have not returned to this house after 04.07.2025, it cannot be established whether they have been refused for entry."

2. The Court Master is directed to take the abovementioned status



report on record.

3. Mr. Dhruv Chawla, learned counsel for defendant nos. 1, 2 and 3 enters appearance. He states that a registered Will was executed by defendant no. 2 in the year 2014, bequeathing the suit property in favour of defendant no. 1.

3.1 He states that he will place the copy of the said Will on record with the written statement.

3.2 He states that on 10.07.2025 another registered Will has been executed by defendant no. 2 bequeathing the suit property in favour of defendant no. 1. He states that this Will reiterates the bequest made in the year 2014 but it also contains a declaration disinheriting the plaintiff herein.

3.3 He states that it is admitted that the plaintiff along with her husband was residing in the suit property as a permissive licensee of defendant no. 2. He states however there was unpleasantness and altercation between the parties recently and plaintiff along with her husband voluntarily walked out of the house.

3.4 He further states, on instructions, from defendant Nos. 1, 2 and 3, who are present in Court, that plaintiff's permissive possession will be restored.

3.5 He states, however, defendant No. 2 reserves his right to initiate proceedings in accordance with the 'Maintenance and Welfare of Parents and Senior Citizens Act, 2007' ('Senior Citizens Act, 2007') for eviction of the plaintiff herein.

4. Learned senior counsel for the plaintiff denies that plaintiff along with her husband voluntarily walked out. He in fact states that



the plaintiff has been locked out of the suit property and all her belongings are in the suit property and have been emptied out in a corner of the suit property to dispossess her forcefully. He states that plaintiff has been thrown out and is living currently in a hotel without any spare clothing.

4.1 He refers to the site plan filed on record. He has identified the room facing the front lawn, as indicated on the site plan filed as Document No. 2 by the plaintiff, as the private bedroom of the plaintiff and her husband within the suit property, where she was residing.

4.2 He states that plaintiff's daughter used to live in the suit property earlier but after her marriage she has shifted to her matrimonial home. He states that plaintiff's son resides in United Kingdom.

4.3 He states that the plaintiff and her husband will file an undertaking to this Court that they will live in the premises peacefully and will also undertake not to cause any inconvenience to the defendants, more specifically to defendant nos. 2 and 3.

4.4 He states that the children of the plaintiff will also give an undertaking, and they may be permitted to visit the plaintiff.

5. Defendant nos. 1, 2 and 3 are present in Court. This Court has interacted with the said defendants.

6. In the facts of this case, it is apparent that plaintiff along with her husband was residing in the suit property with the permission of defendant no. 2, since a considerable period until 04.07.2025 and plaintiff and her husband's entry has been abruptly stopped thereafter.



It is also evident that disputes have arisen between plaintiff and defendant no. 1 with respect to inheritance of the suit property. Defendant no. 2 is the owner of the suit property and unfortunately during his lifetime plaintiff and defendant no. 1 have breached the family peace over the future inheritance.

However, the undisputed fact is plaintiff, and her husband have not vacated the suit property voluntarily but have been overnight stopped by force from entering the suit property. The attempt to dispossess the plaintiff from the suit property without following due process of law is thus evident from the record as well as the status report dated 17.07.2025.

7. In view of the undertaking given by the plaintiff and the statement made by defendant nos. 1 to 3, this Court deems it appropriate to allow the plaintiff's right to permissive possession to be restored by defendant nos. 1 to 3 with directions set out hereunder.

8. The room in which the permissive entry will be given to the plaintiff is hereby marked point 'A' on the physical copy of the site plan (document no. 2) and the same is taken on record. The room has been identified by the Court Master counter signing point 'A'. This site plan for identification has also been signed by counsel for the plaintiff and defendants during the hearing. The copy of this site plan has been handed over to the counsel for the plaintiff, defendants and the officer present from the Police Station DBG Road, Delhi. The plaintiff along with her husband will be entitled to reside in this room. It is clarified that the right of the husband to reside flows from the plaintiff and is not independent.



9. The plaintiff and her husband shall have the right to peacefully use the washroom adjoining the room-Mark A as well as the common areas. The status report shows that plaintiff, earlier as well, was using the common areas.

10. In light of the acrimonious relationship between the parties, the plaintiff and her husband are directed not to invite any guests or visitors to the suit property, except for their son, daughter, and son-in-law ('children'). It will be permissible for the plaintiff's children to visit and stay as overnight guests (for not more than one night a week), but not as regular residents of the suit property.

11. Undertaking(s) of the plaintiff, her husband and her children will be filed within five (5) days. The undertaking(s) will record that they will maintain peace, not enter into any altercation with any family member and co-exist peacefully. In case the undertaking(s) is not filed, the party/member who fails to file the undertaking will not be allowed to enter the suit property.

12. Defendant no. 1 and his wife will file similar undertaking(s) within five (5) days. If the undertaking(s) is not filed, the defaulting party/member will not be allowed to enter the suit property.

13. It is directed in the event plaintiff or defendant no. 1 or their family member violates the undertaking given to this Court, the other party shall be at liberty to approach this Court, and if this Court is satisfied that the party or its family member has violated the undertaking, this Court will vacate this order and direct eviction of the said party.

14. The plaintiff and defendant no. 1 shall ensure that their father



i.e., defendant no. 2 is not subjected to any inconvenience by themselves or their family members.

15. This Court observes that neither the plaintiff nor the defendant no. 1 or their family members have any vested right to reside in the suit property. The suit property is owned by defendant no. 2. Thus, plaintiff and defendant no. 1 as well as their family members shall maintain peace at all times.

16. The plaintiff along with her husband shall arrive at the suit property on 18.07.2025 at 04:00 P.M. and defendants will ensure that plaintiff's possession to the room facing the front lawn marked at point A as directed in this order is restored.

17. The police officials are directed to remain present at the suit property on 18.07.2025 at 04:00 P.M. to ensure smooth entry of the plaintiff in the suit property.

18. With respect to the Will dated 10.07.2025, this Court notes that an advance copy of the present suit was served on Defendant No. 1 via e-mail, and physical service of the paper book was attempted on Defendants Nos. 1, 2, and 3 on 08.07.2025, which was declined. This Court on 10.07.2025 also issued summons in the captioned suit and restrained defendants from creating any third-party interest.

19. In view of the aforesaid facts, the operation of Will dated 10.07.2025 is hereby stayed until further orders and it will be subject to the final outcome of the captioned suit.

20. Additionally, the interim order granted on 10.07.2025 to continue.

21. It is clarified that the right of defendant no. 2 to seek eviction of



the plaintiff by invoking the machinery of the Senior Citizens Act, 2007 is hereby reserved. The subsistence of this suit and this order will not act as a restraint on any directions issued by the competent authority under the Senior Citizens Act, 2007. The order passed by the competent authority shall bind the plaintiff and her husband.

22. List before the learned Joint Registrar on **27.08.2025**.

23. List before Court on **26.11.2025**.

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24. Defendant no. 2 is present in Court. This Court has interacted with defendant no. 2 and enquired with him about the disputes in the suit. Defendant no. 2 has responded to the Court's queries. He has stated that he keeps good health and does not require any regular medication or frequent/regular medical checkups. This Court is of the considered opinion that he is in good health and is coherent. This Court therefore finds no ground to direct medical assessment of his mental capacity or physical condition. This Court finds no ground to appoint a guardian for defendant no. 2.

25. Defendant no. 3 is present in Court. This Court has interacted with defendant no. 3. She has responded to the queries of the Court and stated that she is in good health. She confirms that while plaintiff and plaintiff's husband were residing in the suit property her medication was being administered by plaintiff's husband. Having interacted with her, this Court is satisfied that defendant no. 3 is well looked after and this Court does not find any ground to direct medical examination of defendant no. 3. This Court finds no ground to appoint a guardian for defendant no. 3.



26. As already noted above, the present suit is only a dispute between plaintiff and defendant no. 1 for the inheritance of the suit property during the lifetime of their father who is caught in this unsavory fight of the siblings.

27. Mr. Dhruv Chawla seeks thirty (30) days' time to file written statement and affidavit of admission/denial of documents.

28. List before the learned Joint Registrar on **27.08.2025**.

29. List before Court on **26.11.2025**.

30. 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

JULY 17, 2025/mr/AM