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

+ **CS(OS) 966/2025 with I.A. 32989/2025 and I.A. 32990/2025**

AJAY MALIK & ANR.

.....Plaintiffs

Through: Mr. Arun Kumar Varma, Senior Advocate with Mr. Arjun Malik and Mr. Kharanshu Rana, Advocates with plaintiff No.2 in person

versus

RAJIV TARA & ORS.

.....Defendants

Through: Ms. Kirti Mewar and Mr. Kartik Shoukeen, Advocates for D-1

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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24.12.2025

I.A. 32990/2025 (exemption)

1. Allowed, subject to the plaintiffs filing true typed/legible/certified copies of documents within four (4) weeks from today.
2. The application stands disposed of.

CS(OS) 966/2025

3. Let the plaint be registered as a suit.
4. Issue summons.
5. Summons are accepted by counsel appearing on behalf of the defendant no.1, who waives the issuance of formal summons. Let a copy of the complete set of the plaint paper-book be supplied to the counsel for the defendant no.1 by way of an e-mail during the course of the day.



6. Summons be issued to the remaining defendants through all permissible modes.
7. Written statement(s) be filed by the defendants within thirty (30) days from the date of receipt of summons. Along with the written statement(s), the defendants shall also file affidavit(s) of admission/ denial of the documents of the plaintiffs, without which the written statement(s) shall not be taken on record.
8. Liberty is given to the plaintiffs to file replication(s), if any, within thirty (30) days from the receipt of the written statement(s). Along with the replication(s) filed by the plaintiffs, affidavit(s) of admission/ denial of the documents of the defendants be filed by the plaintiffs.
9. It is made clear that any unjustified denial of documents may lead to an order of costs against the concerned party.
10. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.
11. List before the Joint Registrar on 18th February, 2026 for completion of service and pleadings.
12. List before the Court on 9th April, 2026.

I.A. 32989/2025 (under Order XXXIX Rules 1 and 2 of the CPC)

13. The present suit has been filed for declaration, permanent and mandatory injunction and cancellation of the Sale Deed dated 28th March, 2025.
14. The plaintiffs claim ownership of the entire second floor with roof rights admeasuring 6,500 sq. ft. having covered area of 2,600 sq. ft. of property bearing no. H-5/6 to H-5/10, Kalka Das Marg, Mehrauli, New Delhi.



15. It is stated that the plaintiffs purchased the aforesaid property from the defendant no.3 *vide* sale deed dated 18th September, 2020, executed by the defendant no.4 for a consideration of ₹1,70,00,000/-.

16. It is stated that pursuant to the sale deed, the possession of the property was handed over to the plaintiffs.

17. It is stated on behalf of the plaintiffs that the sale deed could not be registered due to objection raised by Economic Offences Wing on account of a criminal case registered against the defendant no.4. The registration is still pending with the Registrar.

18. Counsel for the defendant no.1 submits that the plaintiffs came to know that a sale deed dated 28th March, 2025 has been executed in favour of the defendant no.1 by the defendant no.4.

19. Mr. Arun Kumar Varma, Senior Counsel appearing on behalf of plaintiffs submits that the defendants have installed a huge container on the property of the plaintiffs which is obstructing the passage of the tenant of the plaintiffs, who has been operating from a wooden structure in the suit property for almost five (5) years.

20. Issue notice

21. Ms. Kirti Mewar, counsel accepts notice on behalf of the defendant no.1 and submits that the defendant no.1 has purchased the first floor of the aforesaid property along with terrace rights *vide* a registered sale deed dated 28th March, 2025. She submits that there is no constructed second floor on the suit property.

22. Further, she submits on instructions from the defendant no.1 that the container placed by the defendant no.1 on the terrace of the first floor of the property does not in any manner obstruct the ingress and egress to the



wooden structure on the terrace.

23. Notice be issued to the remaining defendants *via* all permissible modes, including e-mail.

24. Reply(ies) be filed within four (4) weeks.

25. Rejoinder(s) thereto, if any, be filed within two (2) weeks thereafter.

26. Mr. Varma submits that a Local Commissioner be appointed to verify whether the container is obstructing the ingress and egress to the terrace.

27. Accordingly, Ms. Osheen Sharma, Advocate (Mobile No. +91-8826471235) is appointed as Local Commissioner to visit the suit property situated in:

*H-5/6 to H-5/10, Kalka Das Marg,
Mehrauli, New Delhi*

(hereinafter the 'suit premises')

28. The following directions are passed in this regard:

- a. The Local Commissioner, along with a representative of the parties and/or their counsel, shall be permitted to enter upon the suit premises.
- b. The Local Commissioner shall verify whether there is a wooden structure on the terrace and if so, what are its dimensions and who is in occupation of the same. The Local Commissioner shall also verify whether the container, which has been put on the terrace of the first floor, is obstructing the ingress and egress to the wooden structure on the said terrace.
- c. The Local Commissioner shall have the liberty to take photographs and/or videos of the suit premises/terrace of the suit premises and container put on the terrace of the first floor,



to be filed along with the Report.

29. The Local Commissioner shall file her Report within two (2) weeks of executing the commission, along with photographs and videos taken.

30. The fees of the Local Commissioner, to be borne by the plaintiffs, is fixed at Rs.1,00,000/-. The plaintiffs shall also bear expenses for travel and lodging of the Local Commissioner and other miscellaneous out-of-pocket expenses for the execution of the commission.

31. List before the Joint Registrar on 18th February, 2026 for completion of service and pleadings.

32. List before the Court on 9th April, 2026.

AMIT BANSAL, J

DECEMBER 24, 2025
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