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

\+ CS(OS) 7/2026 and I.A. 100/2026, I.A. 101/2026, I.A. 102/2026
I.A. 103/2026, I.A. 104/2026, I.A. 105/2026, I.A. 807/2026
I.A. 808/2026, I.A. 881/2026, I.A. 5565/2026, I.A. 10644/2026
I.A. 11854/2026 and I.A. 11855/2026

KAPIL MODI .....Plaintiff

Through: Mr. Kapil Modi, Advocate.

versus

DR. DEVENDRA KUMAR MODI AND ORS .....Defendants

Through: Mr. Sanjay Jain, Sr. Advocate with Ms. Jayashree Shukla Das Gupta, Mr. Vidhur Mohan, Mr. Shivam Nayyar, Ms. Prachi Batra, Ms. Radhika Pant, Ms. Harshita Sukhija, Mr. Nishank Tripathi and Ms. Priya Tyagi, Advocates for D1.

Mr. C.D. Mulherkar, Mr. Cheitanya adan, Mr. R. Vigneshwar, Mr. Jomol Joy and Mr. Ishaan Dhingra, Advocates for D2 and D12.

Mr Nilesh Kumar, Advocate for D3.

Mr. Rakesh Kumar, Advocate for D13 to D16.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% 12.05.2026

CS(OS) 7/2026

1. The plaint be registered as suit.

2. Issue summons to the defendants.

3. Ms. Jayashree Shukla Das Gupta, learned counsel appearing on behalf of defendant no.1 accepts summons.

4. Mr. C.D. Mulherkar, learned counsel appearing on behalf of defendant no.2 and 12 accept summons.

5. Likewise, Mr Nilesh Kumar, learned counsel appearing on behalf of defendant no.3, as well as, Mr. Rakesh Kumar, learned counsel appearing on behalf of defendant nos. 13-16 accepts summons.

6. They submit that copy of the plaint, I.A.s and documents have been received by them.

7. Let written statement be filed within a period of thirty days from today.

8. On plaintiff taking steps, summons be issued to unrepresented defendants i.e. defendant nos.4-11 by all permissible modes.

9. The summons shall indicate that written statement must be filed within thirty days from the date of receipt of summons.

10. The defendants shall also file an affidavit of admission/denial of the documents filed by the plaintiff, failing which the written statement shall not be taken on record.

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

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

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

14. List before the learned Joint Registrar for completion of service, pleadings, admission/denial of documents and marking of exhibits on

19.08.2026.

15. List before Court thereafter on a date assigned by the learned Joint Registrar.

I.A. 100/2026 (under Order XXXIX Rules 1 & 2 read with Section 151 CPC by plaintiff)

16. This Court notes that, this is an application which was previously preferred by the plaintiff seeking interim injunctions. However, the plaintiff has subsequently filed a revised application *viz.* I.A no. 881/2026 under the same provisions.

17. Since, I.A. No. 881/2026 has been filed by the plaintiff which also includes the relief claimed in the present application, this application is rendered infructuous and is disposed of as such.

I.A. 881/2026 (revised application under Order XXXIX Rules 1 & 2 read with Section 151 CPC by plaintiff)

18. Issue notice to defendants.

19. Ms. Jayashree Shukla Das Gupta, learned counsel appearing on behalf of defendant no.1 accepts notice. Mr. C.D. Mulherkar, learned counsel appearing on behalf of defendant no.2 and 12 accepts notice.

20. Likewise, Mr Nilesh Kumar, learned counsel appearing on behalf of defendant no.3, as well as, Mr. Rakesh Kumar, learned counsel appearing on behalf of defendant nos. 13-16 accepts notice.

21. On plaintiff taking steps, issue notice to all unrepresentative defendants.

22. The case set out in the plaint by the plaintiff is that he was born on 22.02.1978 and is the third lineal descendant with unobstructed heritage of the late Shri Multanimal Modi (21.10.1876 – 22.10.1957), the propositus of

the Modi family's Mitakshara coparcenary. On 24.01.1989, the Modi family executed a Memorandum of Understanding (in short "MOU of 1989"), which sub-classified the family into two sub-coparcenary groups: Group 'A' and Group 'B'.

23. Group 'A' was led by the plaintiff's late grandfather, Dr. K.N. Modi, who had three sons, namely M.K Modi, D.K Modi/defendant no. 1 and Y.K Modi. Further, D.K Modi/defendant no. 1 has two sons, namely Kapil Modi/plaintiff and Manav Modi/defendant no. 2. Group 'B' was led by the five sons of late Sh. G.M. Modi.

24. It is stated that, between 1993 and 1995, two *inter se* family settlements occurred within Group 'A', pursuant to which the plaintiff's two uncles (Sh. Y.K. Modi and Sh. M.K. Modi) separated after receiving their respective shares. Following these separations, Group 'A' continued with four members: Dr. K.N. Modi (grandfather), D.K Modi/defendant no. 1, the plaintiff, and Manav Modi/defendant no. 2.

25. Mr. Kapil Modi, the plaintiff appearing in-person, submits that being a direct third lineal descendant of late Shri Multanimal Modi, he became an equal coparcener in the entire undivided Modi family's Mitakshara coparcenary by virtue of his birth on 22.02.1978 and operation of law. This undivided coparcenary interest under Hindu law vested in him along with his grandfather (K.N Modi) and father/defendant no. 1 (Dr. D.K Modi) eleven years prior to the execution of the Memorandum of Understanding dated 24.01.1989.

26. He further submits that the MOU of 1989, which sub-classified the Modi family into two sub-coparcenary groups (Group 'A' and Group 'B'), recognized only the joint and collective interest of the concerned groups,

and no individual Modi had any exclusive or individual rights therein. Consequently, the said MOU had neither extinguished nor diluted his pre-existing undivided coparcenary interest acquired prior to its execution and his coparcenary right continues unabated in his coparcenary i.e. Modi Group 'A' even after the MOU. Therefore, plaintiff's right in Group 'A' as a coparcener continues.

27. Further in the context of the MOU of 1989 he submits that the properties listed in Schedule 'A' of the plaint, forms part of the 1989 MOU, while Schedule 'B' comprises of properties acquired from the nucleus of Schedule 'A' properties, as well as properties that were thrown into the common stock/hotchpot, and therefore are unequivocally coparcenary properties.

28. Furthermore, he submits that the MOU of 1989, wherein the plaintiff's coparcenary right continues, has been upheld by the Hon'ble Supreme Court in 1989 in the decision of ***K. K. Modi vs. K. N. Modi & Ors., (1998) 3 SCC 573,*** thereby affirming that the plaintiff coparcenary right still exist.

29. Mr Modi, further submits that, following two *inter se* family settlements between 1993 and 1995, pursuant to which his two uncles namely, Y.K and M.K Modi, separated from Group 'A' after receiving their respective shares, Group 'A' continued thereafter with four coparceners, namely, his late grandfather, his father/defendant no. 1, the plaintiff, and his younger brother/defendant no. 2.

30. He submits that he is entitled to a 25% share within the properties listed in Schedule A and B of the plaint, representing his own independent undivided coparcenary interest. Additionally, he is entitled to a 8.33% share

(being 1/3rd of his late grandfather's 25% share) within the Schedule A and B properties, which he acquired by survivorship as his undivided coparcenary interest upon the demise of Dr. K.N. Modi on 27.05.2005, since his grandfather's interest continued to retain its coparcenary nature qua the plaintiff.

31. He, therefore, contends that plaintiff is entitled to a total of 33.33% of undivided coparcenary interest, as till now there has been no partition in the Modi family and in Group 'A'.

32. Moreover, Mr. Modi argued that if Group 'A' were not a coparcenary, there would have been no necessity for defendant no. 1 and late Dr. K.N. Modi to litigate in order to protect the interests of Group 'A' from Group 'B', in various cases before the Hon'ble Supreme Court and High Courts and there would have been no occasion for defendant no. 1 to continue to act as a representative and member of Group 'A' after Dr. K.N. Modi's demise.

33. Furthermore, the plaintiff places heavy reliance on explicit pleadings, specifically paragraph 8 filed by defendant no. 1 in Suit No. 991 of 2009, wherein defendant no. 1 stated that Group 'A' and Group 'B' are two HUFs. He submits that such explicit pleadings on part of defendant no.1, makes the existence of the HUF clear.

34. He further submits that more than 50 affidavits filed before various courts by defendant no. 1, his late grandfather, and other defendants, along with five stay orders granted by the Hon'ble Supreme Court and this Court in cases filed by his father based on the same MOU, rely on identical facts and circumstances. He argues these are in conformity with the plaintiff's present partition suit, thereby affirming the continuance of his coparcenary rights.

35. To buttress his contention, he has placed reliance on the decision of ***Vineeta Sharma vs. Rakesh Sharma & Ors. (2020) 9 SCC 1.***

36. *Per Contra*, Mr. Sanjay Jain, learned Senior counsel appearing on behalf of defendant no. 1, primarily challenges the maintainability of the suit, arguing that the plaintiff's submission to coparcenary rights based on the MOU of 1989 is fundamentally flawed. He submits that the MOU of 1989 was merely an arrangement among its signatories providing an exit mechanism from various corporate entities, Trusts, and Societies, and subsequent litigations which was earlier being litigated by plaintiff's grandfather, namely K.N Modi and presently by defendant no.1, that arose because some signatories to the 1989 MOU, failed to comply with its terms.

37. He further submits that, following the promulgation of the Hindu Succession Act, 1956 (HSA), a son inheriting property from his father inherits the same in his individual capacity, and not as the *Karta* of his own undivided family unit consisting of him and his sons. This legal position is supported by judgments in ***CWT v. Chander Sen (1986) 3 SCC 567;*** **Yudhishter v. Ashok Kumar (1987) 1 SCC 204**, and ***Uttam v. Saubhag Singh (2016) 4 SCC 68***. Consequently, he submits that right from the lineage of the great-grandfather of the plaintiff, who died in 1957, successive inheritances have been in the individual capacity of the inheritors, bearing no element of HUF or coparcenary.

38. Moreover, he submits that the plaint suffers from various omissions, lacking material particulars and failing to adhere to the mandatory requirements of basic pleadings in terms of Order VI Rule 4, CPC. He argues that the plaint is bereft of any positive or specific pleadings regarding the formation of any HUF in the Modi Family before and after the triggering

of Section 8 of the HUF. Therefore, as there is no description of any HUF having been established prior to 1957, or in 1957 (when great grandfather died) or in 2005 by throwing any property into the common hotchpotch, the suit fails to fall within the recognized legal exceptions carved out, and merits dismissal at the outset.

39. Furthermore, addressing the plaintiff's reliance on prior pleadings of defendant no.1 in other suits, Mr. Jain further submits that no case can be founded on a selective and out-of-context reading of other suits or legal proceedings. The pleadings filed by defendant no. 1 in Suit No. 991 of 2009 were made in relation to the enforcement of the 1989 MOU's exit mechanism, not in the context of an HUF partition suit. The specific averment in paragraph 8 relied upon by the plaintiff was only made to identify the family lineage of Dr. K.N. Modi and Shri G.M. Modi in the context of the MOU, and it does not qualify the legal tests required to lend any credence to the theory of an HUF. Furthermore, he submits that neither in the present plaint nor in the 2009 suit has it been pleaded that defendants nos. 3 to 16 were set up from the funds of ancestral properties or properties of any HUF.

40. Mr. Rajv Nayar, learned Senior counsel appearing on behalf of defendant no. 2 and 12 submits that the plaint is procedurally defective and liable for rejection under order VII Rule 11 CPC. He submits, that the plaint must strictly comply with order VI Rule 4 of the CPC and the plaintiff must delineate all material factual particulars, including the creation of the alleged HUF, the act of contributing self-acquired property into the HUF, and the consequent entitlement of coparceners to their respective shares.

41. He further submits that, the plaintiff has not even referred to

defendant no. 12 anywhere in the plaint but has only made a single sentence and unsubstantiated allegation in the Schedule to the Plaint that defendant no. 12 was acquired by defendant no. 2 by using funds received from the alleged nucleus of Group 'A'. He submits that, it is a settled principle of law that the burden to plead and prove squarely lies upon the person asserting that a particular property is joint family property. The plaintiff has failed to discharge this initial burden, and no presumption in law can arise against defendant no. 12.

42. Furthermore, he submits that, defendant no. 12 (Proec Energy Limited), is a company registered in the year 1993 by third parties, which have its own distinct and separate identity and does not form part of the MOU of 1989. He submits that in proceedings of a personal nature against a shareholder/director, there cannot be any injunction on the operations or assets of the company. Further, the plaintiff's belated inclusion of defendant no. 12, having omitted it in his original July 2024 legal notice, is an afterthought lacking *bona fides*, made solely with an ulterior motive to exert pressure and harass the defendants.

43. Mr. Saurabh Kirpal, learned Senior counsel, appearing on behalf of defendant no. 3 (HDL), submits that HDL was incorporated as a company on 05.03.2001, much after the signing of the MOU of 1989. While defendant no. 3/HDL was a unit of MSWML (Modi Spinning and Weaving Mills Co. Ltd.) that came under Group A's management pursuant to the 1989 MOU, this arrangement related only to management control and operational supervision. He submits that it did not confer any proprietary or ownership rights over the company or its assets to individual Modi family members, nor did it disturb the shareholding of MSWML.

44. He further submits that, MSWML was before the BIFR under SICA, leading to a sanctioned scheme for revival. Dr. D.K. Modi/defendant no. 1 infused around Rs. 20 crores from his personal, independent resources to settle the dues of MSWML, which included paying banks, financial institutions, workers' dues, and statutory liabilities. Consequently, Dr. D.K. Modi's increased shareholding in HDL is strictly attributable to his personal financial contributions; it has nothing to do with any inheritance and is not traceable to alleged family funds.

45. Furthermore, he submits that, it is a well settled law that a company is a separate legal entity distinct from its shareholders. The assets of the company remain the property of the company and cannot be treated as coparcenary or family property. Furthermore, shares in a company are governed by the Companies Act, and not by the Hindu Succession Act. Therefore, no shareholder can claim a personal right over specific company assets in a partition suit, rendering the plaintiff's attempt to claim coparcenary rights over the company's assets legally impermissible and barred by law.

46. Mr. Kirpal further contends that the shareholding and assets of HDL are self-acquired, not derived from the 1989 MOU, thus, they are not ancestral property, and not liable to partition. As a Public Limited Company, HDL's functioning and day-to-day business activities cannot be curtailed by any interim or final order in a partition suit.

47. Mr. Sumeet Pushkarna, learned Senior counsel appearing in behalf of defendants no. 13 to 16, submits that the plaint, insofar as it impleads independent charitable entities, is a clear abuse of the judicial process, legally misconceived, and barred by law. He submits that, insofar as the

trusts are concerned, namely defendant nos. 13 and 16, their constitution and management are governed by the Indian Trusts Act, 1882, and their respective Trust Deeds. Properties vest exclusively in the Trust or Trustees, and persons who are not Trustees have no title. The plaintiff has not filed the Trust Deeds, nor has he claimed to be a Trustee or a beneficiary. Crucially, the Indian Trusts Act does not permit the partition or division of trust properties amongst trustees and outsiders.

48. He further submits that insofar as the Societies are concerned, namely defendant nos. 14 and 15, their governance is dictated by their Bye-laws and the Societies Registration Act, 1860. The plaintiff has not filed their memorandums or bye-laws and does not even claim to be a member. Under Section 5 of the Societies Registration Act, property vests in the governing body, and Sections 13 and 14 stipulate that upon dissolution, assets shall not be distributed amongst the members. The Societies Registration Act does not permit the partition or division of properties of societies.

49. Further, he submits that, this Court lacks territorial jurisdiction as defendant No. 13 was registered in Patiala, while Defendant Nos. 14, 15, and 16 were registered in Modinagar. The plaintiff has not alleged that any of their assets are situated in Delhi. Furthermore, the plaintiff has misjoined disjunctive causes of action; a court dealing with a suit for partition of alleged coparcenary property cannot simultaneously exercise jurisdiction under the Indian Trusts Act or the Societies Registration Act. Therefore, the plaint deserves to be rejected in *limine* under Order VII Rule 11 CPC to protect independent charitable institutions from unwarranted litigation, and consequently, no interim relief under Order XXXIX Rules 1 and 2 CPC can arise against these entities.

50. I have considered the submissions advanced by the plaintiff in person, as well as the preliminary objections raised by the learned Senior Counsels appearing on behalf of the respective defendants.

51. At the outset this court notes that, it is a trite law that grant of a temporary injunction is guided by well-established principals, wherein, the burden rests upon the plaintiff to prove the existence of a *prima facie* case, alongside demonstrating that the balance of convenience lies in his favour and that irreparable injury would be caused if the relief is denied.

52. In the present case, the plaintiff heavily relies on the assertion of an unabated Mitakshara coparcenary interest since his birth, contending that the MOU of 1989 merely sub-classified the family into Group 'A' and Group 'B', whereby plaintiff's coparcenary right rests in Group 'A'. Plaintiff has further asserted that if Group 'A' were not a coparcenary, there would have been no necessity for defendant no. 1 and late Dr. K.N. Modi to litigate to protect the interests of Group 'A' from Group 'B', in various cases before the Hon'ble Supreme Court and High Courts and further there would have been no occasion for defendant no. 1 to continue to act as a representative and member of Group 'A' in various suits, after Dr. K.N. Modi's demise.

53. On the other hand, the defendants vehemently contest this position on fundamental questions of law and fact, including the effect of Section 8 of the Hindu Succession Act, 1956; the true nature of the 1989 MOU as a mere exit mechanism, and the alleged failure of the Plaintiff to satisfy the mandatory pleading requirements under Order VI Rule 4 of the CPC regarding the creation or re-establishment of an HUF. Furthermore, serious objections have been raised by defendant nos. 12, 13, 14, 15, and 16 regarding their status as independent, separate juristic entities (Companies,

Trusts, and Societies) stating that their assets cannot be presumed to be joint family property or partitioned.

54. At this stage of issuance of summons, this Court refrains from rendering finding, even *prima facie,* without calling for defendants' response in writing, since serious factual and legal disputes exist.

55. The principle of preservation of the subject matter cannot be employed as a substitute for the foundational requirement of a *prima facie* case. Interim protection is intended to safeguard an established legal right, not to insulate disputed facts merely because they are the subject of challenge.[1]

56. Given the highly contested nature of the facts, *inter alia* the existence of HUF, legal interpretation of the MOU of 1989 and the independent juristic status of the corporate and charitable entities involved, which are issues that cannot be resolved on the basis of unilateral assertions of the plaintiff at this interlocutory stage.

57. In view of the foregoing, this Court deems it appropriate to consider the prayer for grant of interim relief after completion of pleadings.

58. Let reply be filed within a period of six weeks.

59. Rejoinder thereto, if any, be filed within two weeks thereafter.

60. List before the Court on 24.09.2026.

VIKAS MAHAJAN, J

MAY 12, 2026/*jg*

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[1] *Sunanina Singh & Anr. vs. Sita Chaudhary (Thr LRs) & Ors., 2026 SCC OnLine Del 1189*