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

+ C.R.P. 8/2026, CM APPL. 2770/2026, CM APPL. 2771/2026&CM
APPL. 2772/2026

JYOTI TUSHIR & ORS.

.....Petitioners

Through: Mr. Upmanyu Shram, Mr. Parshant
Singh and Mr. Gaurav Kumar,
Advocates.

versus

NIDHI & ANR.

.....Respondents

Through:

+ C.R.P. 9/2026, CM APPL. 2876/2026, CM APPL. 2877/2026&CM
APPL. 2878/2026

JYOTI TUSHIR & ORS.

.....Petitioners

Through: Mr. Upmanyu Shram, Mr. Parshant
Singh and Mr. Gaurav Kumar,
Advocates.

versus

NISHANT & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **16.01.2026**

**CM APPL. 2770/2026 in C.R.P. 8/2026 & CM APPL 2876/2026 in
C.R.P. 9/2026 (Exemptions)**

1. Allowed, subject to all just exceptions.
2. Applications are accordingly disposed of.

CM APPL. 2771/2026 in C.R.P. 8/2026 & CM APPL. 2877/2026 in



C.R.P. 9/2026 (Exemptions)

1. Allowed, subject to all just exceptions.
2. Applications are accordingly disposed of.

CM APPL. 2772/2026 in C.R.P. 8/2026 (Condonation of delay) & CM APPL. 2878/2026 in C.R.P. 9/2026 (Condonation of delay)

1. These applications have been filed seeking condonation of delay of 18 days in re-filing the present petition.
2. In view of the facts as stated in the applications, the delay of 18 days is hereby condoned.
3. Applications are allowed and accordingly disposed of.

C.R.P. 08/2026 & C.R.P. 09/2026

1. These petitions have been filed assailing the impugned judgment dated 17th September 2025 passed by ACJ, Rohini Courts where the petitioner's application under Order VII Rule 11 of Code of Civil Procedure, 1908 ('CPC') was dismissed.
2. The brief facts are that the petitioner was married to one *Mr. Naresh Kumar Tushir* and petitioner no. 2 and 3 were the children which were born out of wedlock.
3. *Mr. Tushir*, died in a car accident on 24th February 2013, and when petitioner went to his native village in Sonipat, she came to know about his existing marriage with respondent no.2. Respondent no.1 was eldest daughter from that marriage with respondent no.2.
4. Upon finding out that the suit property purchased by *Mr. Tushir*, being *SFA Flat no. 348 in Block C & D, 3rd floor in Shalimar Bagh, Residential Scheme* had been mutated by respondent no.2 in favour of her



children. *Suit No. 7620/2013* was filed by petitioner seeking declaration that the mutations were null and void and sought a permanent injunction.

5. Pursuant thereto a compromise deed was entered into on 1st April 2015, where respondent no.2 stated that she will not dispossess petitioners from the said property.

6. Further, by order dated 19th September 2015 passed in the suit, respondent no.2 and her four children, were restrained from alienating more than their 5/7th shares of property.

7. Subsequent to the compromise decree, respondent no.1 filed a *Suit No. 105/2020* seeking a declaration that the compromise deed was null and void.

8. The suit was sought to be rejected by the application under Order VII Rule 11 of CPC claiming the bar of Order XXIII, Rule 3A of CPC

9. The said plea was accepted by the impugned order as noticed in *paragraph 10* of the said order however, the application was rejected considering that the second relief claimed related to a permanent injunction restraining petitioners from raising unauthorized construction on the suit property was held to be maintainable.

10. Counsel for appellant *Mr. Upamanyu Sharma*, contends that the second relief flows out of the first relief and, therefore, cannot be severed and the suit ought to have been rejected completely once having found that the relief of declaration was barred by Order XXIII, Rule 3A of CPC.

11. Moreover, he states that the issue of any unauthorized construction does not arise since there is a *status quo* directed on the property in CS (OS) 652/ 2018, a suit for partition filed by children of petitioner no.1 which is extracted as under:



“12.Considering the submissions made, the parties are directed to maintain status quo in respect of Property H. No. 348, Block C & D, SFS Society Shalimar Bagh Delhi-110088.”

12. Mr. *Sharma* also pleads on the ground of limitation under Article 59 of the Limitation Act, 1963 relating to the relief of declaration.
13. In these facts and circumstances, issue notice to the respondents on steps being taken by the petitioner through all permissible modes including email.
14. List on 29th April 2026.
15. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 16, 2026/RK/zb