



2025:DHC:10274



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

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Judgment Reserved on: 15.11.2025

Judgment pronounced on: 21.11.2025

+ **FAO 78/2023 & CM APPLs. 15779/2023, 21111/2023**

RACHNA MEHNIDRATTA

.....Appellant

Through: Mr. Harshit Vashisht, Mr. Avinash Kapoor, Mr. Dipayan Gupta and Mr. Shivdeep Kumar Tripathi, Advocates

Versus

GIRDHARI LAL

.....Respondent

Through: Mr. Dinesh Garg, Advocate alongwith respondent in person.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. The present appeal under section 104 read with Order XLIII Rule 1 and section 151 of the Civil Procedure Code, 1908 (the CPC) assails the correctness of the order dated 20.02.2023 passed by the learned Additional District Judge, West District, Tis Hazari Courts, Delhi, in **CS No. 582/2019**, titled as **“Girdhari Lal v. Narender Kumar & Ors.”**, whereby the trial



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court allowed the respondent/plaintiff's application under Order XXXIX Rules 1 and 2 CPC and restrained the defendants, including the appellant/defendant herein, from creating any third-party interest in the suit property and from carrying out any construction entailing structural changes therein during the pendency of the suit.

2. The property in question is 38/1, Ground Floor, Double Storey, Ramesh Nagar, New Delhi (the suit property), originally allotted to late Shri Lila Ram *undervide* a registered lease dated 30.04.1965. The respondent/plaintiff herein asserts that upon the demise of the original allottee, the property devolved upon the legal heirs of late Shri Lila Ram and, pursuant to an oral family settlement subsequently reduced into writing in 2007, the suit property fell to his share along with that of his brother.

3. The respondent/plaintiff alleges that Mr. Narender Kumar, was a tenant under his father and thereafter under him, and



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that in early 2017, the said tenant disclaimed the respondent/plaintiff's title and asserted that the appellant/defendant herein, had become the owner. The respondent/plaintiff further alleges that certain renovation works were commenced by the defendants (of the aforementioned suit) without authority, compelling him to institute the present suit for possession and injunction.

4. The appellant/defendant herein, who was impleaded upon the demise of Smt. Sushma Mehndiratta, claims through a long chain of successive registered transactions, commencing from a family settlement dated 01.07.1974, subsequent GPA and mutation in favour of Shri Kishan Chand in 1997, and thereafter through multiple registered Agreements to Sell and GPAs executed between 1997 and 2016. The appellant/defendant herein claims to be a *bonafide* purchaser for value under registered instruments dated 29.06.2016.



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5. Prior to the institution of the present suit, the respondent/plaintiff had instituted a comprehensive suit in 1999, being **CS No. 626/1999 – “Girdhari Lal & Anr. v. Ashok Kumar & Ors.”**, seeking partition, declaration, and consequential reliefs in respect of, *inter alia*, the suit property. Issues in the said suit stand framed and evidence is underway. Owing to overlapping subject property and parties, the subsequent suits filed by the respondent/plaintiff, including the present suit, were transferred and consolidated with the 1999 suit *vide* order dated 01.06.2022, with the 1999 suit designated as the lead suit for recording of evidence.

6. The learned counsel for the appellant/defendant assails the impugned order primarily on the ground that the trial court has failed to appreciate that the respondent/plaintiff has no *prima facie* right, title, or interest in the suit property. Counsel submits that the respondent/plaintiff's claim based on an alleged family settlement



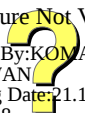
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remains sub judice in the 1999 lead suit for over two decades. Until the question of title is adjudicated therein, no injunctive relief could be granted in favour of the respondent/plaintiff in collateral proceedings.

6.1 The learned counsel would also contend that the respondent/plaintiff unsuccessfully sought interim relief in the 1999 suit and, having failed to obtain any protection for more than 20 years, has instituted subsequent suits as a device to secure indirectly what he could not obtain directly. The learned counsel submits that this constitutes concealment, forum manipulation, and abuse of the process of the Court.

6.2 The learned counsel for the appellant/defendant further submits that once all suits relating to the property stand consolidated, the trial court ought not to have entertained an independent application for injunction in the present suit. To





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augment his contention, the learned counsel states that the present proceedings are barred by Section 10 CPC, as the issues concerning ownership and possession are substantially identical to those pending adjudication in the 1999 suit.

6.3 The learned counsel would further state that the ingredients of Order XXXIX Rules 1 and 2 CPC were not satisfied. The respondent/plaintiff has neither established a *prima facie* case nor demonstrated any irreparable injury. The mere assertion that alienation may lead to multiplicity of litigation, it is submitted, cannot substitute for the statutory requirement of showing a probability of entitlement to relief.

6.4 The learned counsel finally, submits that the injunction gravely prejudices the appellant/defendant, who is in settled possession as a *bonafide* purchaser and merely sought to undertake repairs. The impugned order, it is urged,



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is based on conjecture and fails to consider the documentary chain of title relied upon by the appellant.

7. *Per contra*, the learned counsel for the respondent/plaintiff supports the impugned order and submits that the present suit is founded upon a distinct and subsequent cause of action, arising out of the alleged renunciation of tenancy by defendant no.1 (Mr. Ashok Kumar) and the subsequent assertion of adverse title by the appellant/defendant and her predecessors. It is argued that the 1999 suit cannot be treated as a bar to an independent suit arising out of fresh injurious acts.

7.1 The learned counsel emphasised that the appellant/defendant and her predecessors were not originally parties to the 1999 suit and were impleaded much later. Thus, the institution of a separate suit to challenge their subsequent acts of interference or construction cannot be faulted.



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7.2 The learned counsel would also argue that both the parties assert competing claims of ownership, and until the question of title is finally adjudicated in the lead suit, the trial court was justified in preserving the property in status *quo anteto* avoid irreversible prejudice and to protect the subject matter of litigation.

7.3 The learned counsel urged that the trial court has exercised its jurisdiction lawfully, upon a proper appreciation of the fact that any alienation or structural alteration carried out by the appellant/defendant during the pendency of the proceedings would complicate and potentially defeat the final adjudication. The balance of convenience, it is urged, lies in favour of granting protection to the property.

7.4 The learned counsel concluded by contending that the impugned order is purely prohibitory in nature, does not dispossess the appellant/defendant, and causes no irreparable



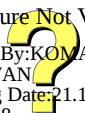
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prejudice. The order merely restrains creation of third-party rights and structural changes—restrictions routinely imposed where title is disputed.

8. Heard the learned counsels appearing for the parties at length and have perused the record of the case.

9. The parties do not dispute the foundational facts relating to the suit property, the original allotment in favour of late Shri Lila Ram, the competing chains of devolution and subsequent transactions, or the pendency of the comprehensive suit instituted in 1999, which has since been designated as the lead suit for purposes of recording evidence. There is also no dispute that the present suit, though subsequently filed, arises in the context of intervening assertions by the tenant and successors claiming title, and that the trial court has consolidated all suits to avoid duplication of evidence and inconsistent findings.





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10. The central question that arises for consideration in this appeal is whether the trial court, while exercising its equitable and discretionary jurisdiction under Order XXXIX Rules 1 and 2 CPC, acted within the confines of settled legal principles in granting a limited prohibitory injunction restraining the appellant/defendants from creating third-party interests or effecting structural alterations in the suit property during the pendency of the proceedings.

11. It is well-settled that appellate interference with an interlocutory order is circumscribed and warranted only where the discretion has been exercised arbitrarily, capriciously, perversely, or in disregard of settled principles. (*Wander Ltd. v. Antox India (P) Ltd.*, 1990 Supp SCC 727; *Ramakant Ambalal Choksi v. Harish Ambalal Choksi & Ors.*, 2024 INSC 913.)

12. At this stage, this Court is not required to undertake a conclusive determination of title. The pleadings and the documents relied upon by both parties reveal a complex factual history,



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spanning several decades, marked by intra-family arrangements asserted by the respondent/plaintiff and a long chain of registered agreements, powers of attorney, and mutations relied upon by the appellant/defendant.

13. The trial court has correctly noticed that both sides assert competing proprietary rights, and that the validity, effect, and legal consequences of these documents can only be adjudicated upon full trial, particularly in the 1999 lead suit where evidence is currently underway.

14. The contention that the respondent/plaintiff has no *prima facie* case solely because the earlier suit remains pending cannot be accepted. The test at the interlocutory stage is whether the respondent/plaintiff's claim is not frivolous, raises a substantive triable issue, and requires preservation of the property to ensure that the eventual adjudication is not rendered academic. The Apex Court in **Dalpat Kumar v. Prahlad Singh, (1992) 1**



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SCC 719, as also reiterated in *Ramakant Ambalal Choksi (Supra)*, has held that a *prima facie* case need not establish title conclusively but must show a serious question to be tried. The existence of a long-pending lead suit, though relevant, does not negate the respondent/plaintiff's right to seek protection against fresh acts allegedly undertaken by newly impleaded parties or successors in title, especially where such acts—if not restrained—may alter the character of the property or create rights difficult to unravel later.

15. Insofar as Section 10 CPC is invoked, the bar under the said provision is attracted where the matter in issue is directly and substantially the same in both suits and the previously instituted suit is between the same parties litigating under the same title. The subsequent impleadment of the present appellant/defendant and her predecessors in the earlier suit does not retroactively cure the distinction in parties at the time of institution. More importantly,



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the present suit is grounded in the alleged renunciation of tenancy and assertions of adverse ownership that arose long after the institution of the 1999 suit. As held in *National Institute of Mental Health v. C. Parameshwara*, (2005) 2 SCC 256, Section 10 CPC does not apply where the subsequent suit is based on a fresh cause of action. It cannot therefore be held that the trial court acted illegally or with material irregularity in entertaining the application for interim relief in the present proceeding.

16. The further contention that the injunction was granted mechanically, without satisfying the statutory ingredients of Order XXXIX CPC, is also untenable. The trial court has recorded, upon examination of the pleadings and documents, that both sides claim title in exclusion of the other, that the property is susceptible to alienation and structural modification, and that permitting either during pendency of the suit could lead to multiplicity of proceedings and frustrate the final adjudication. The apprehension



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expressed by the respondent/plaintiff is neither speculative nor remote. The Apex Court has recognised in ***Seema Arshad Zaheer v. MC of Greater Mumbai, (2006) 5 SCC 282***, that preservation of the subject property is a legitimate ground for granting interim relief to prevent frustration of the pending litigation.

17. The injunction granted is narrowly tailored. It does not disturb possession, does not confer any substantive right upon the respondent/plaintiff, and does not restrict the appellant/defendant from defending her claims or participating fully in the trial. It merely ensures that the character of the property remains unaltered and that no third-party rights are created which may complicate or impede the adjudication in the lead suit. The balance of convenience in such circumstances lies clearly in favour of maintaining the status quo, consistent with the principles in ***M. Gurudas v. Rasaranjan, (2006) 8 SCC 367***. The doctrine of *lis pendens* embodied in Section 52 of the Transfer of Property Act,



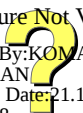
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1882 further reinforces the necessity of preserving the property during the pendency of litigation.

18. In the totality of the circumstances, and bearing in mind the limited and protective nature of the order under challenge, this Court finds no perversity, illegality, or jurisdictional error in the exercise of discretion by the trial court and, accordingly, no ground is made out for interference in appellate jurisdiction, as emphasised in *Ramakant Ambalal Choksi (Supra)*. Hence, in view of the aforesaid discussion, this Court is of the considered view that the impugned order dated 20.02.2023 warrants affirmation.

19. The interim directions issued by the trial court shall continue to operate during the pendency of the proceedings, subject to the clarification that nothing contained herein shall be construed as an expression of opinion on the merits of the rival





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claims to title, which shall be adjudicated independently in the lead suit.

20. In the result, the Appeal is dismissed. Application(s), if any, pending, shall stand closed. There shall be no order as to costs.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

**NOVEMBER 21, 2025
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