



2025:DHC:2608-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 16.04.2025***+ **FAO(OS) 44/2025****SHEIKH IQBAL AHMED & ORS.Appellants****Through: Mr. Bahar U Barqi and Mr.
Marooh Ahmad, Advs.****versus****ASHWANI KUMAR GUPTA & ORS.Respondents****Through: Mr. Kuljeet Rawat and Mr.
Aditya Joshi, Advs. for R
Nos. 1 to 3, 6 to 8 and 23 to 27.****CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE RENU BHATNAGAR****NAVIN CHAWLA, J. (ORAL)****CM APPL. 21937/2025(Exemption)**

1. Allowed, subject to all just exceptions.

FAO(OS) 44/2025 & CM APPL. 21936/2025

2. This appeal has been filed under Section 10 of the Delhi High Court Act, 1966, challenging the Order dated 10.03.2025 passed by the learned Single Judge of this Court in IA No. 32152/2024 filed in CS (OS) 3286/2015, titled *Sheikh Iqbal Ahmed & Ors v. Ashwani Kumar Gupta & Ors.*, disposing of the said application filed by the respondent nos. 1 to 3, 6 to 8 and 22 to 27 with the following directions:-

“ 17. In view of the above, this Court is

Signature Not Verified

Signed By: VIJAYA
LAKSHMI DOBHAL
Signing Date: 24.04.2025
18:45:52

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inclined to allow the present application by directing the Applicants/Defendants to appoint a Chowkidar from reputed Security Agency who will lock the gates at 08:30 PM from Monday to Saturday and 05:00 PM on Sunday. The costs of the Chowkidar will be borne by the Applicants/Defendants themselves.

18. The Defendants are directed to ensure that the Plaintiffs' ingress and egress to the common passage is not hampered."

3. The learned counsel for the appellants submits that the learned Single Judge has erred in passing the above directions without appreciating that there were no pleadings by the respondents/applicant therein in support of the prayers made in the said application. He contends that an *interim* injunction in a mandatory nature was not warranted to be passed in the facts and circumstances of the present case. He further submits that the respondents have no right over the portion of the land in question and further points out that the respondents have also illegally changed the character of the area in their possession.

4. We have considered the submissions made by the learned counsel for the appellant, however, we find no merit in the same.

5. The learned Single Judge has taken into consideration the nature of the suit filed by the appellants and their pleadings in the same. The learned Single Judge has also taken into account the compromise that was entered between the parties before the Division Bench of this Court, as recorded in the Order dated 19.04.2000 passed in CM No.788/2000 filed in FAO(OS) 22/2000. We do not deem it necessary to reproduce the same in the present order.



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6. The learned Single Judge has also taken note of the fact that admittedly the area in dispute is a common passage, and the use of the same by the respondents/applicants cannot be denied. We, therefore, find that the learned Single Judge has rightly balanced the rights of the parties by making the *interim* arrangement as directed in the Impugned Order. We, thus, find no infirmity in the same.

7. Accordingly, the appeal along with the pending application(s), if any, stands dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 16, 2025

p/mn/DG

Click here to check corrigendum, if any