



\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 165/2022, CM APPL. 27199/2022, CM APPL. 27200/2022 & CM APPL. 50303/2023**

DINESH KUMAR GUPTA AND ORSAppellants
Through: **Mr. Rambhakt Agrawal, Adv.**

versus

VIJAY KUMAR GUPTA AND ANRRespondents
Through: **Mr. Suneet Nagpal, Adv.**

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **21.04.2025**

1. The hearing is being conducted through hybrid mode.
2. The pleadings are complete.
3. Having heard the learned counsels for the parties and on perusal of the record, this appeal preferred by the appellants under Section 104 read with Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908, [**'CPC'**], comes up for final disposal.
4. Respondent No.1, who is the plaintiff in the main suit, is seeking relief in the nature of declaration, partition and permanent injunction, in respect of property measuring 30 Sq. Yards out of 180 Sq. Yards comprised in Property No. X-101, Gali No. 13, Brahmapuri, Delhi-110 053.
5. It appears that on an application under Order XXXIX Rules 1 and 2 of the CPC moved on behalf of the respondent No.1/plaintiff, learned Trial Court *vide* impugned order dated 22.12.2021 has restrained the appellants/defendants from creating any third-party rights in respect of whole of the suit property.



6. Learned counsel appearing for the appellants submits that they are willing to submit an undertaking with regard to not creating any third-party interest in respect of 30 Sq. Yards of the land comprised in the aforesaid property. It is submitted that the fall out of the impugned order is that an interim injunction has been granted in respect of the entire property, which is completely unwarranted.

7. After some arguments, learned counsel for the appellants submits that he shall move an appropriate application before the learned Trial Court for modification of the impugned order dated 22.12.2021 apart from submitting necessary undertaking.

8. Accordingly, the present appeal is disposed of without prejudice. The appellants shall be at liberty to move an appropriate application before the learned Trial Court for modification of the impugned order dated 22.12.2021 and seek appropriate relief in accordance with law.

9. The pending applications are also disposed of.

DHARMESH SHARMA, J.

APRIL 21, 2025/sp/sa