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

+ **CM(M) 34/2025**

NIDHI KHURANA

.....Petitioner

Through: Mr. Mukul Rawal, Adv.

versus

INDERJEET KAUR BHATIA & ORS.

.....Respondents

Through: Mr. Manish Gupta, Adv

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

21.01.2025

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CM APPL. 1375/2025 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 34/2025

1. This is a petition under Article 227 impugning the order dated 09.10.2024 passed by learned Civil Judge-01, West District, Tis Hazari Courts, Delhi in the Civil Suit Bearing No. *CS SCJ No. 754/ 2022* titled as *Nidhi Khurana vs. Inderjeet Kaur Bhatia & Ors..*
2. Petitioner filed a suit for Permanent & Mandatory Injunction in the year 2022.
3. During the pendency of the case, the petitioner filed an application under Section 151 CPC seeking permission to remove overhead water tanks as also the flower pots and plants kept by the respondents in the staircase leading to the third floor and provide a clear passage to the petitioner.



4. The application has been dismissed by the Trial Court vide order dated 09.10.2024.
5. Learned counsel for the respondents has objected to the petition submitting that the relief claimed in the application was beyond the relief claimed in the original suit and therefore, petitioner could not have filed the application without first amending the plaint.
6. After part submissions, learned counsel for the petitioner seeks permission of the Court to withdraw the present petition with liberty to file appropriate application before the Trial Court for amending the plaint.
7. The statement made by learned counsel for the petitioner is taken on record and the petition is dismissed as withdrawn with liberty to the petitioner as prayed for.
8. It is made clear that if such application is filed, the Trial Court shall decide the application on merits, notwithstanding any observations made in this order.

RAVINDER DUDEJA, J

JANUARY 21, 2025

Sk/fs