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

+ **CS(OS) 30/2023 & I.A. 6779/2023**

HARBANS KAUR KOCHAR

.....Plaintiff

Through: (Advocate) *Appearance not given*
Plaintiff in person

versus

VIKAS VERMA & ANR

.....Defendants

Through: Mr. Samarth Chowdhary and Mrs.
Pracheta Kar, Advocates for D-1 with
Defendant No. 1 in person
Mr.Ghanshyam Sharma , Mr. Vikas
Sharma ,Mr.Lakshya Mahajan,
Advocates for D-2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

11.02.2026

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1. The instant Suit has been filed with the following prayers:-

“A. Kindly be pleased to allow the present Civil Suit and award the Decree of Easement in favor of the Plaintiff to access the common areas such as porch, stair, stairs, servant room, terrace etc. of the Suit Property i.e., B2/210, Safdarjung Enclave, New Delhi - 110029.

B. Kindly be pleased to allow the present Civil Suit and award the Decree of Perpetual and Mandatory Injunction in favour of the Plaintiff and against the Defendants for the Tortuous actions / conduct of Nuisance by restraining / injuncting the Defendants to feed/ bring the stray dog within the Suit Property i.e.,B2/210, Safdarjung Enclave, New Delhi - 110029.



C. Kindly be pleased to allow the present Civil Suit and award the Decree for the direction to the Defendants to issue a sincere public letter of apology for the cause of Nuisance and restricting / disturbing / interfering the easement of the Plaintiff on the Suit Property i.e., B2/210, Safdarjung Enclave, New Delhi - 110029 as suffered by the Plaintiff.

D. Kindly be pleased to allow the present Civil Suit and award the Decree for the order of grant of damages for value of Rs.2,00,00,000/- (Rupees Two Crores Only) to the Plaintiff caused by the Tortuous conduct of the Defendants of Damages citing the Legal Tort of Nuisance and Restricting / Disturbing / interfering in the enjoyment of the easement on the Suit Property i.e., B2/210, Safdarjung Enclave, New Delhi - 110029.

E. Any other order or directions including the costs of the Civil Suit (Court Fee / Litigation and Other Fees) as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case be also passed in favor of the Plaintiff.”

2. The genesis of the dispute is that Defendant No.1, who is the resident of the Suit Property used to feed a street dog in the Suit Property. The Plaintiff is the occupant of the Ground Floor and Defendant No.2 is the occupant of the Second Floor. It is stated that the dog has passed away.

3. This Court on 20.05.2025 passed the following order:-

“1. This suit has been filed seeking a decree for easement, injunction and damages.

2. Learned counsel for defendant no. 2 states that the genesis of the dispute is that defendant no. 1, who is the resident in the property i.e., B2/210, Safdarjung Enclave, New Delhi ('suit property') used to feed a



street dog in the said property wherein the plaintiff is also an occupant/resident in the ground floor.

2.1. He states that the said street dog has since passed away. He states that in fact, the plaintiff during settlement had undertaken to unconditionally withdraw the suit.

3. Learned counsel for the plaintiff states on instructions that plaintiff is willing to withdraw the suit, subject to defendant no. 2 furnishing an apology from every individual, who is feeding the street dog as well as the costs of the Court fees.

4. Learned counsel for the plaintiff has been called upon to address arguments on the maintainability of the suit.

5. He states that he does not have instructions to argue.

6. The suit appears to be entirely frivolous and misconceived.

7. The adjournment is granted, subject to plaintiff paying cost of Rs. 10,000/- to the counsel for defendant no. 2 within a period of two (2) weeks from today.

8. List for arguments on maintainability of the suit on 10.10.2025.”

4. In view of the fact that the parties have decided to bury their differences, the costs of Rs.10,000/- stands waived.

5. Learned Counsel for the Plaintiff states that in order to maintain a good relationship, the Plaintiff is not pressing the relief of damages that has been prayed for in the present Suit.

6. The Plaintiff, who is present in Court, has instructed the learned



Counsel for the Plaintiff to withdraw the Suit with liberty to approach this Court in case need arises in future.

7. Permission and liberty, as prayed for, is granted.

8. In view of the Judgment passed by the Division Bench of this Court in Nutan Batra v. Buniyaad Associates, **2018 SCC OnLine Del 12916**, wherein it has been held that there is no difference if the suit is either withdrawn on settlement under Order XXIII Rule 1(3)(b) of the CPC or settled under Order XXIII Rule 3 of the CPC, the Plaintiff would be entitled to refund of court fee in both the cases provided that the withdrawal is on the basis of the settlement.

9. Therefore, the Registry is directed to refund the entire court fee to the Plaintiff in terms of Section 16 of the Court Fees Act.

10. With these observations, the suit is disposed of as withdrawn along with pending application(s), in terms of Order XXIII Rule 1(3)(b) of the CPC.

SUBRAMONIUM PRASAD, J

FEBRUARY 11, 2026

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