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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 47/2024 and CM APPL. 7592/2024**

NARINDER PALGOTRA AND ORSAppellants
Through: Mr. Puneet Bajaj, Advocate

versus

ANITA PALGOTRA AND ORSRespondents
Through: Mr. Kunal Anand, Ms. Richa Kapoor,
Mr. Kapil Kanwar and Mr. Aryan
Prasad, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
13.04.2026

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1. The present appeal filed under XLIII Rule 1 of the Code of Civil Procedure, 1908 (CPC) is directed against the order dated 23.12.2023 (hereinafter the 'impugned order') passed by Ld. ADJ-07, South East District, Saket Court, New Delhi in CS DJ No. 902/2023 vide which the application filed under Order XXXIX Rules 1 and 2 CPC by the respondents (hereinafter the 'plaintiffs') came to be allowed and appellants (hereinafter the 'defendants') were restrained from creating any nuisance, obstruction or hindrance in the usage/occupation and possession of ground floor and part of first floor of suit property i.e., *property No. 568, Prem Gali (Krishna Gali), Kotla Mubarakpur, New Delhi - 110003*. The defendants were further restrained from transferring or creating any rights/third party rights *qua* the suit property and from using the terrace above the first floor, except for maintenance purposes with prior notice to the plaintiffs.



2. The impugned order came to be passed in the context of a suit filed by the plaintiffs for declaration, possession, permanent and mandatory injunction. In the suit, plaintiff No.1 has claimed that she is the truthful, lawful and absolute owner of entire *First Floor (with Terrace)* of the property bearing No. 568, Krishna Gali, Prem Nagar, Kotla Mubarakpur, New Delhi -110003 admeasuring 250 sq. yards alongwith its super structure consisting of the ground floor, first floor and terrace above the first floor (hereinafter as the 'suit property').

The plaintiff No. 1 has claimed the aforesaid on the strength of registered Gift Deed dated 10.01.2017, executed by Late Smt. *Krishna Wati* (the mother-in-law of plaintiff No.1). Plaintiff No.2 and defendant No. 1 are brothers, whereas the plaintiff No.1 and defendant No. 2 are their respective wives. It was further claimed that Smt. *Krishna Wati* had purchased the suit property through her self-acquired funds vide Sale Deed dated 07.06.1974, duly registered as Document No. 3057, in Addl. Book No. 1, Volume No. 3353, on pages 34-37, on 11.06.1974, in the office of Sub Registrar, New Delhi.

It was further claimed that defendant No.1 alongwith his family were permitted to stay in the half portion of the first-floor of the suit property on a gratuitous basis without payment of any license fee, charge or rent. On account of their continued misbehavior towards Lt. Smt. *Krishna Wati* a public notice was also issued in the leading daily newspaper of Delhi edition dated 09.05.2013, whereby, defendant Nos. 1 to 3 (sons of defendant Nos. 1 and 2) were disowned and excluded from all the movable and immovable properties. An affidavit to the said effect was also sworn on the said date by Smt. *Krishna Wati* along with her late husband, Sh. *Chaman Lal*, on account



of the continued misconduct by defendant No's 1-3. The plaintiffs further claimed that, the defendants 1 and 2, in order to grab the entire first floor also forged and fabricated unregistered documents (hereinafter collectively referred to as the 'impugned documents'), which included: -

- i. Agreement to Sell dated 03.03.2000
- ii. Receipt of Cash of Rs. 2,30,000/-, dated 03.03.2000
- iii. Letter of possession dated 03.03.2000
- iv. Will dated 03.03.2000
- v. General Power of attorney dated 03.03.2000
- vi. Affidavit of Smt. *Krishna Wati* dated 03.03.2000

In the aforesaid backdrop, the plaintiffs have sought an *ex parte ad interim* order/directions against Defendant Nos. 1 to 4, restraining them, as well as their agents, representatives, heirs, and assigns, from creating any nuisance, obstruction, or hindrance in the plaintiffs' use, occupation, and possession of the subject property. The plaintiffs further seek to restrain the defendants from transferring or creating any third-party rights in respect of the subject property, and from using or occupying the terrace above the first floor of the property, except for the limited purpose of maintenance or repair of water tanks and antennas.

3. On the other hand, the defendants have disputed the claim by doubting the validity of the documents executed in favour of the plaintiffs. It was further claimed that documents relied upon by the defendants were executed prior in point of time and, thus, no *prima facie* case was made out in favour of the plaintiffs with respect to first floor of the suit property.

4. The Trial Court, upon appreciating the contentions as well as the documents placed on record further took note of the FIR No. 0147/2023



registered under Sections 406/467/468/471/120B IPC, lodged by the plaintiffs at P.S. *Kotla Mubarakpur* against the defendant Nos. 1 and 2 *qua* the aforesaid impugned documents. Trial Court also took note of the public notices published in the newspapers by Lt. Smt. *Krishna Wati*, disowning the defendants, copies of which were appended with the suit.

On such consideration, the Trial Court concluded that the plaintiffs had established a *prima facie* case and that the balance of convenience and irreparable loss also lay in their favour.

5. It is well settled that while exercising appellate jurisdiction against an interlocutory order granting or refusing an injunction, the Appellate Court ought to be slow in interfering with the discretion exercised by the Trial Court. Interference is warranted only where such discretion is shown to have been exercised arbitrarily, capriciously, perversely, or in disregard of settled principles of law. [Reference: *Wander Ltd. v. Antox India (P) Ltd.*¹; *Mohd. Mehtab Khan v. Khushnuma Ibrahim Khan*²].

6. The grant of a temporary injunction is governed by the well-settled triad of principles, namely, the existence of a *prima facie* case, the balance of convenience being in favour of the applicant, and the likelihood of irreparable injury in the event relief is denied. These principles must co-exist and are to be assessed on a cumulative basis. [Reference: *Dalpat Kumar v. Prahlad Singh*³].

7. Notably, while the documents in favour of the plaintiffs *qua* the entire suit property were registered, the documents relied upon by the defendant *qua* the first floor were unregistered documents. In the facts of the present

¹ (1990) Supp SCC 727

² (2013) 9 SCC 221

³ (1992) 1 SCC 719



case, this Court is of the opinion that the plaintiffs have been able to establish a *prima facie* case on the strength of a registered Gift Deed, which constitutes a legally recognized mode of transfer of title in immovable property. It is equally well settled that documents such as an Agreement to Sell, General Power of Attorney, or other unregistered instruments do not, by themselves, convey title or create any interest in immovable property. [Reference: *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana*⁴].

8. The contentions raised by the appellants with respect to alleged fabrication, suspicious circumstances surrounding the documents relied upon by the plaintiffs, and the inter se disputes between the parties, involve disputed questions of fact which are matters for trial and cannot be conclusively adjudicated at this stage.

9. Having regard to the nature of the documents placed on record and the findings returned by the Trial Court, this Court does not find any infirmity, illegality or perversity in the impugned order warranting interference.

10. The appeal is dismissed alongwith pending application.

MANOJ KUMAR OHRI, J

APRIL 13, 2026

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⁴ (2012) 1 SCC 656