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

+ **FAO 54/2025 & CM APPL. 14123/2025**

CM APPL. 23519/2025

RAJESH MALHOTRA & ANR.

.....Appellants

Through: Mr. Umang Tyagi and Mr. Zuber Ali,
Advocate

versus

VIKRAM PANWAR & ANR.

.....Respondents

Through: Mr. Nishant Nain, Ms. Charu Sharma
and Mr. Chandarjeet Yadav,
Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

05.05.2026

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1. The present appeal arises in context of an order dated 22.02.2025, passed by the learned District Judge, *Saket* (South East District), in CS DJ 873/2023, whereby, the application filed by the appellant/plaintiff under Order 39 Rule 1 and 2 came to be dismissed, and the interim order dated 01.12.2023 passed in favour of the appellant was vacated.

2. Learned counsel for the appellant submits that before passing the impugned order, a Local Commissioner was appointed who submitted a report dated 23.12.2023, noting, inter alia, the existence of two water tanks and two disconnected pipes running from the terrace to the appellant's portion. Accordingly, while issuing notice on 10.03.2025, this Court had directed as under:-



“In the meanwhile, the appellant/plaintiff shall not be restrained from reconnecting their pipes to the water tanks which are installed on the roof by employing a plumber and shall not be denied access to the terrace to maintain the water tank. In case any hindrance is caused by the respondents, the SHO concerned shall ensure that this order is complied with.”

3. Learned counsel for the appellant, on instructions, submits that he would not create any equity in case this arrangement is allowed to be continued during the pendency of the suit.

4. Learned counsel for the respondent, however objects to the same, stating that the respective sale deeds, dated 31.10.2005 and 28.01.2008, also specifically mention as to the portion where the respective water tanks are to be kept.

5. Considering that the order dated 10.03.2025 is only an interim arrangement, besides the respective rights of the parties, as stated to be governed by the respective sale deeds, would be a matter of Trial.

6. In view of the undertaking given on behalf of the appellant, the appeal alongwith the pending applications is disposed of.

7. The directions contained in order dated 10.03.2025 are made absolute till the pendency of the suit. It is made clear that this Court has not gone into the merits of the case and the contentions remain unheard.

MANOJ KUMAR OHRI, J

MAY 5, 2026

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