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

+ **CS(OS) 306/2026 & I.A. 9461/2026, I.A. 9462/2026**

PRADEEP & ORS.

.....Plaintiffs

Through: Mr. Abhishek Kaushik, Adv.
Mob: 7985562122
Email: abhikaus5456@gmail.com

versus

MAHENDER SINGH & ORS.

.....Defendants

Through: Mr. Anupam Kumar Mishra, Adv. for
D-1
Mob: 9830333388 & 9051112233
Email:
support@lexisandcompany.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

08.04.2026

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CS(OS) 306/2026

1. The present suit has been filed for partition of the property measuring 600 sq. yards, bearing No. WZ-764, Mohalla Badiyal, Palam Village, New Delhi-110045.
2. Learned counsel appearing for defendant no. 1 has put in appearance on advance notice, and submits that earlier a suit was filed by defendant no. 1, i.e., CS DJ ADJ 68/19, before the Dwarka Courts, New Delhi. He submits that vide order dated 09th October, 2023, *status quo* was directed to be maintained with respect to the property therein, which is the same, as the suit property in the present case.



3. He submits that the said suit had been filed by defendant no. 1, seeking permanent injunction against the plaintiffs herein, from disturbing the possession of defendant no. 1 in the suit property.

4. The said suit was decreed *vide* order dated 15th July, 2025, wherein, the plaintiffs herein made a statement that they shall not dispossess defendant no. 1 herein, without due process of law. The order dated 15th July, 2025 passed in *CS DJ ADJ 68/19*, is reproduced as under:

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21 CS DJ ADJ 68/19

MAHINDER SINGH AND ANR Vs. KRISHNA DEVI AND ORS

15.07.2025

Present: Sh. Anupam Kumar Mishra Ld. counsel for the plaintiff.
Sh. R. D. Kaushik Ld. counsel for the defendants.

Reply filed to the application under Order 6 Rule 17 CPC on behalf of the defendants. Copy supplied to Ld. counsel for the plaintiff last night.

Arguments were being heard under Order 6 Rule 17 of CPC whereby the plaintiff was trying to amend the description given, in the plaint, to the area of suit property i.e. from 200 sq. yards to 600 sq. yards. A site plan was already filed alongwith the plaint giving the position of the suit property. The defendants had filed a written statement claiming that the property is 600 sq. yards. The plaintiff, by way of the said amendment, also trying to incorporate the relief of declaration that he is the owner.

At this stage, without going into the controversy, Ld. counsel for the defendants has given a statement that he shall not dispossess the plaintiff without due process of law from the suit property as depicted in the site plan. That satisfies the claim made in the present suit as on date, excluding the amendment proposed to be made by way of the application.

At this stage, Ld. counsel for the plaintiff submits that amendment application would only create more complications in the present matter and since the main relief claimed, has been satisfied, the suit may be disposed off with liberty to the plaintiff to file fresh suit on any further and/or future cause of action including



the relief for declaration, partition or mandatory injunction, if required or deemed fit. Statement of Ld. counsel for plaintiff also recorded.

Application is accordingly disposed off as withdrawn with liberty as prayed for.

The suit is decreed in terms of the statements made today in the court. Parties are left to bear their own costs.

File be consigned to record room.

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5. Learned counsel appearing for defendant no. 1 further submits that the defendant no. 1 has filed a fresh suit being *CS DJ ADJ 394/25*, wherein, defendant no. 1 has sought prayer for declaration, mandatory and permanent injunction, with respect to the same property, on the grounds that the defendant no. 1 herein is in possession of the suit property for more than thirty-five (35) years, without disturbance. Further, defendant no. 1 also seeks declaration that the defendant no. 1 is the owner of the said suit property. The defendant no. 1 is claiming the possessory rights over the suit property.

6. Further, another suit being, *CS DJ ADJ 1016/25*, titled as “*Mahender Singh Versus Krishna Devi and Ors.*”, has been filed against the plaintiffs herein, wherein, the defendant no. 1 is seeking permanent injunction and declaration of his title over the property, which is subject matter of the present suit.

7. Learned counsel appearing for the plaintiffs admits the fact that defendant no. 1 has filed a suit against the plaintiffs herein, seeking declaration as owner of the suit property on the basis of possessory rights.

8. If that be the case, the present suit for partition shall not be maintainable before this Court.



9. The documents as handed over to this Court by learned counsel for defendant no. 1, are taken on record.
10. It is to be noted that the present suit has been filed for partition of the very same property, which is subject matter of the proceedings before the Dwarka Courts, New Delhi, wherein, the defendant no. 1 has asserted his proprietary rights over the property in question.
11. Accordingly, till the issue with regard to title of the suit property is not established, there is no question of the plaintiffs seeking partition of the suit property, when the very title of the suit property is subject matter of adjudication.
12. At this stage, learned counsel appearing for the plaintiffs submits that he shall withdraw the present suit. He submits that he shall take all the requisite steps and make requisite submissions in the suit, which is already pending.
13. Accordingly, the present suit is dismissed, as withdrawn.
14. The pending applications also stand disposed of.

MINI PUSHKARNA, J

APRIL 8, 2026/SK