



2026:DHC:266



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

% **Reserved on : 22nd December 2025**
Pronounced on : 13th January 2026
Uploaded on : 13th January 2026

+ **FAO 187/2020**

CHAMAN SINGH VERMA & ORS.Appellants

Through: Mr. Pankaj Kumar, Advocate along
with Appellant in person.

versus

DHARAM YUGRespondent

Through: Mr. Ankit Dixit and Mr. Ashish
Kumar, Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal assails the impugned order dated 13th January 2020 passed in Civil Suit No. 571/2018 titled “*Chaman Singh Verma & Ors. v. Manish Arora & Ors.*”, dismissing the application moved by the appellants/plaintiffs under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908 (‘CPC’). Appellants/plaintiffs filed a suit for declaration, permanent and



2026:DHC:266



mandatory injunction against the respondents/defendants seeking a decree of declaration that plaintiffs have an unhindered right to use the common passage in relation to the property at *RZ-111/A, Gali No. 7, East Sagarpur, New Delhi-110046*, and a decree of permanent injunction against the defendants to remove the lock on the main gate through *Gali No. 7*, as well as the locks from the smaller gates within the main gate. Further, permanent injunction was sought against the defendants to restrain them from blocking the common passage, by parking either four wheelers/ automobiles or any two or three wheelers or any other object impeding the free use of the common passage. The other reliefs sought in the plaint were essentially of the same effect, namely that the plaintiffs' passage to their part of the dwelling should not be impeded.

2. As part of the suit, an application under *Order XXXIX Rule 1 & 2* of CPC was filed seeking *ex parte ad-interim* temporary injunction against the respondents/defendants from causing any hindrance in the peaceful enjoyment of the common passage.

3. Appellant/plaintiff nos. 1, 2 and 3 are absolute owners in possession of their respective portions of the property/flat which has been built on the said property and respectively own the 2nd Floor, 1st Floor and the Upper Ground Floor.

4. Respondent nos. 2-5 in this appeal are all partners of *M/s Arora Builders*, who are in the business of construction of residential dwellings.

5. Respondent no.1/defendant no. 5 herein is a resident of the front



2026:DHC:266



portion of the said property.

6. Respondent no. 1/defendant no. 5 entered into a collaboration agreement dated 26th May 2016 with respondent nos. 2-5/defendant nos. 1-4 and developed and constructed the property at plot no. *RZ-111/A* and built a three-storey structure with a stilt parking space.

7. Collaboration agreement was executed between respondent no. 1/defendant no. 5 on one hand and respondent nos. 2-5/defendant no. 1-4, the builders, on the other for development and construction of a dwelling unit on the said plot. It was agreed that three storeys would be built, i.e., upper ground floor, first floor and second floor, with stilt parking space and that the construction would be done by respondent nos. 2-5/defendant no. 1-4.

8. Post the construction, the division of the dwelling units was as under:

- i. Respondent no. 1/defendant no. 5 would be the owner of shops in the stilt parking, one-room set in the stilt parking space, upper ground floor, first floor and second floor with roof rights over the stilt parking space.
 - ii. The builders (respondent nos.2-5/defendant nos.1-4) would be the owners of the entire back portion of the property measuring *60 sq. yds.* and four car-parking spaces from the front side of the said property.
9. Subsequently, a sale deed was executed by respondent no. 1/defendant no. 5 in favour of the builders on 19th December 2016 in relation to the back portion of the property admeasuring *60 sq. Yds.*



2026:DHC:266



10. Notably, the recital of the said sale deed recorded that the sale would be along with water, electricity, sewerage and common rights of staircase and passage.

11. Post the dwelling units being built, the back portion of the said property came to the share of the builders, who, on 19th April 2018, executed sale deeds, in relation to the three floors in the back portion, through three separate agreements with appellant nos. 1, 2 and 3, respectively. The said sale deeds also stated that the property was being transferred along with water, electricity, sewerage, with common rights of staircase and passage and proportionate rights of the land, along with undivided 1/4th share of car parking with stilt parking space.

12. The resultant of these events was that the appellants got the ownership and possession of the three floors in the back portion admeasuring 60 sq. yds., whereas respondent no. 1/defendant no. 5 got the front portion of the property.

13. It is an admitted position that there is stilt parking space which has access from the front side, there being a lane of approximately 20 feet width (*Gali No. 7*), which allows access through a gate to the stilt parking, whereas there is a narrower 10 feet wide lane in the back portion, which also has a gate to enter into the stilt parking.

14. The dispute arose, triggered by respondent no. 1/defendant no. 5, who completely blocked the common passage in the property from the front side by putting a lock on the main gate, which opened into the front lane, i.e. *Gali*



2026:DHC:266



No. 7.

15. When confronted, respondent no. 1/defendant no. 5, who owned the front portion of the property with the underlying *100 sq. yds.*, claimed exclusive right to the passage from the front side from *Gali No. 7*, had put a lock on the said gate and were using it for entry and exit of his own vehicles and those visiting him.

16. Appellants/plaintiffs, on the other hand, who are in the back portion, were not allowed to use the entry and exit gate from the front *Gali No. 7* and therefore could not access their portion of the stilt parking space in the rear portion admeasuring *60 sq. yds.* Area.

17. The *gali/lane* in the rear portion being extremely narrow, almost like a service lane, and being used by various other neighbours to park their vehicles, it was impossible for the appellants to get access to the stilt space from the rear portion.

18. Having been denied this easementary right to the common passage, and not being able to use the stilt parking for parking of vehicles, including four-wheelers, due to the acts of respondent no.1/defendant no. 5 to restrict access to the back portion by parking their vehicles in the central line between the front and the back portion in the stilt parking or threatening to erect a wall, the suit came to be filed.

19. Essentially, plaintiffs are aggrieved by the lack of access to their own stilt parking in the *60 sq. yds.* rear portion, to which they have full rights,



2026:DHC:266



since respondent no. 1/defendant no. 5 restricted the access by various acts of locking the gate, impeding their access, blocking their access and taking exclusive control of the same.

20. Application under *Order XXXIX Rule 1 & 2* of CPC was, therefore, filed in order to get interim relief in relation to the same.

21. Before the Trial Court, the application was listed where defendant nos. 1, 2 and 3 were proceeded *ex parte vide* orders dated 15th October 2018 and 27th May 2019, respectively. On 13th January 2020, none appeared for defendant nos. 4 and 5. Defendant nos. 1-4 were served but did not file written statements and were proceeded *ex parte*, whereas respondent no. 1/defendant no. 5 filed the written statement and addressed arguments, as also the plaintiffs. In these circumstances, the plaintiffs' application was, therefore, dismissed by the impugned order.

The impugned order

22. After assessment of the facts of the case and the arguments of the parties, the Trial Court notes the reliance on the collaboration agreement and the registered sale deeds as noted above. The application was dismissed by noting that in the sale deeds dated 19th December 2016 between respondent no.1 and respondent nos. 2-5, there was no mention of 4 numbers of car parking spaces, nor was it in the sale deeds executed by respondent nos.2-5/defendant nos.1-4 with plaintiffs. The Trial Court, therefore, concluded that there was no *prima facie* case shown by plaintiffs and, therefore, dismissed the application.



2026:DHC:266



Analysis

23. This Court heard the counsels for the parties and also perused the documents on record and the submissions. The Court finds the impugned order to be bereft of proper reasoning and have dismissed the application without proper appreciation of the material on record. The fundamental error committed by the Trial Court is that it chose to rely upon the terms of the sale deed executed between respondent no.1 on one hand and respondent nos.2-5 on the other in isolation, without reading it holistically with the rights that were being transferred or were being intended to be transferred.

24. Essentially, the fundamental basis of the project was encapsulated in the collaboration agreement by which the respondent no.1 had agreed to invite the respondent nos.2-5 to build on the property and take the rear portion of the property in ownership. It is not denied that this is a composite property with the front portion being occupied by respondent no.1 while the rear portion is occupied by the appellants. It is also not denied by the counsel for the parties that the access to the respective portions is from a common staircase which opens up in the stilt parking.

25. It is also not denied that the front *lane/Gali no.7*, which runs along the front portion of the property is a *20 feet wide* road, whereas the one at the back is *10 feet wide*. It is also not denied that there was no specific clause in the set of agreements either the collaboration agreement or the sale deeds where the respondent no.1 (or respondent nos.2-5 for that matter) had provided an express clause stating that the plaintiffs/appellants will have no



2026:DHC:266



access to the stilt parking from the front side of the property or that there would be a strict demarcation between the front portion of the stilt parking and the rear portion of the stilt parking. There was also no express clause that the plaintiffs/appellants would have to compulsorily access the stilt parking from the rear portion of the property through the *10 feet wide lane*.

26. Considering this fact position, the Trial Court ought to have appreciated the terms of the agreements in that context.

26.1. *Firstly*, the collaboration agreement executed between respondent no.1 on the one hand and respondent nos.2-5 on the other specifically states in *Clause 7* that the respondent nos.2-5/builders shall be “*owner of entire portion of the property, area measuring 60 sq. yds., from back side in the said property and 4 numbers of car parking from front side in the said property*”. This clause itself, which the appellants rely upon, sets the whole thing in motion and provides support to the submissions of the appellants that the intent between the parties was always that they would get access from the front side of the property through the stilt parking.

26.2. *Secondly*, post construction, a sale deed was executed between respondent no.1/defendant nos.5 in favour of the builders/respondent nos.2-5 to sell the *60 sq. yds.* at back portion of the property to respondent nos.2-5 along with water, electricity, sewerage connections and “*common rights of staircase and passage*”. Further, *Clause 3* of the said agreement notes that respondent nos.2-5, the vendees, shall “*hold, use, and enjoy as they like as their own property without any hindrance, claim or demand*”



2026:DHC:266



whatsoever from the vendor”.

26.3. *Thirdly*, the sale deed executed between the builders and the appellants also transferred the rights to the respective floors along with “*common rights of staircase and passage*” and “*undivided 1/4th share of car parking in the stilt parking space*”. Here as well, the vendors/builders stated that the appellants/vendees would enjoy the said property “*without any hindrance, claim or demand whatsoever from the vendors*”.

27. The impugned order, however, relied only upon *Clause 6 and Clause 7* of the collaboration agreement and stated that the said provisions did not find any place in the sale deeds executed between the parties. In the context of what has been stated above, this finding, even on a *prima facie* basis, is untenable. It is undeniable that *prima facie*, a reading of the three agreements in conjunction would show that the intention was to give access rights to the owners of the back portion of the property to the stilt parking for parking the vehicles from the front side considering that there was no clause specifying that the access would only be from the back gate and through the *10 feet* road.

28. What is also notable is that in *paragraph 4* of the written statement, the respondent no.1/defendant no.5 states as under:

“That the present is not maintainable and the same is liable to be dismissed as the present suit has been filed by the plaintiff by committing perjury. It is submitted that as per Clause 7 of the Collaboration Agreement 26.05.2016 executed between the Defendant No.5 (on one hand) and



2026:DHC:266



Defendant No.1 to 4 (on the other hand), the Defendant No.1 to 4 had become the owners of portion of property area measuring 60 sq. yds., from back side in the said property and four nos. of car parking from front side in the said property, meaning thereby that the Defendant No.1 to 4 were not given any right to use any passage from the rest portion of the plot beyond 60 sq. yds. except the car parking for 4 cars from the front side.”

(emphasis added)

29. This averment by respondent no.1/defendant no.5 in itself is contradictory, as *firstly*, they do rely upon *Clause 7* of the collaboration agreement; and *secondly*, despite relying upon the same, they seek to interpret it in a completely illogical manner. *Clause 7* of the collaboration agreement very clearly states that the rights which were being given to the builders were of the property at the back side; however, four car-parking spaces were to be given from the front side of the said property.

30. By order dated 31st January 2024, it was noted that the record reveals that service to the said respondents stands concluded as the same have been duly served by way of publication. In any event, defendant nos.1-3 did not choose to contest the matter before the Trial Court. Defendant no. 1 was proceeded against *ex parte* and has not appeared before this Court, and defendant no.4 had appeared, but his defence was struck off. This Court, therefore, does not find any impediment in passing this order.

31. Having considered the site plan filed along with the plaint and there being no denial by the counsel for respondent no.1 that the access from the



2026:DHC:266



front was from the wider road as opposed to the narrower road at the back, the Court at least *prima facie* finds the act of respondent no.1 to be highly obstructive and amounting to causing a hindrance in the peaceful enjoyment of the premises which have been conveyed to the appellants through the builders in this regard.

32. Appellants/plaintiffs have demonstrated a good *prima facie* case with balance of convenience in their favour and irreparable prejudice if they are not allowed access to the stilt parking through the front gate which would directly impact the right to a peaceful possession and enjoyment of the property, as promised in the collaboration agreement.

33. The Court also takes notice of the fact appellants/plaintiffs have effectively claimed easementary rights on the basis of provisions in the sale deed read with the collaboration agreement.

34. Accordingly, the appeal is allowed, and the impugned order is set aside.

35. The injunction sought by plaintiffs' application is, therefore, granted to the extent that the respondent no.1 shall permit the appellants to use the front gate abutting *lane/Gali no.7* for purposes of ingress and egress of their vehicles, which can be parked in the stilt parking.

36. Respondent no.1 shall not cause any hindrance in the same in any manner whatsoever, including by putting a lock, blocking the main gate or causing any other unreasonable restriction or nuisance in ingress and egress,



2026:DHC:266



which would amount to non-compliance of the directions passed by this Court. In case, locks are required to be put on the main gate in night, duplicate keys thereof will be hand over to the appellants/plaintiffs so that all occupants have access to the common area and the stilt parking.

37. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

JANUARY 13, 2026/mk/bp